

COAL AND THE EUROPEAN COAL AND STEEL COMMUNITY

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THOMAS ALLEN TAYLOR

B. A., Iowa Wesleyan College, 1965

A MASTER'S REPORT

submitted in partial fulfillment of the

requirements for the degree

MASTER OF ARTS

Department of Economics

KANSAS STATE UNIVERSITY
Manhattan, Kansas

1968

Approved by

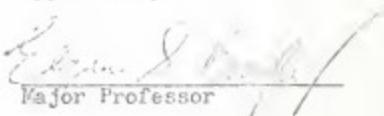

Major Professor

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INTRODUCTION

This report reviews literature in the English language pertaining to coal in the European Coal and Steel Community.

It begins with a brief description of the European Coal and Steel Community, its formation, its government, and its purposes regarding the goals of adequate production and good working conditions in the Community. The market structure of the production and distribution of coal is discussed. The efforts of the High Authority to achieve goals concerning competition are reviewed and the success of their efforts appraised.

The decline of the coal industry in the fuel market of the ECSC countries since 1957 is next described. The policies of the High Authority in dealing with adjustment problems associated with the decline of the coal industry are reviewed.

The report ends with a discussion of some possible actions which might be taken to deal with the problems created by the decline in demand for coal.

Formation of the European Coal and Steel Community

The European Coal and Steel Community (ECSC) was formed on April 18, 1951, by treaty ratified to be in force for fifty years. The six nations to sign the treaty were Belgium, France, The German Federal Republic, Italy, Luxembourg, and the Netherlands. The founding of the ECSC was the outgrowth of a proposal of the French Foreign Minister Robert Schuman, often referred to as the Schuman Plan.

The ECSC was formed for several reasons. First, the smallness of national markets cramped economic development and retarded improvement in the living standards of the member nations. Second, the creation of large internal markets was essential to the member countries to allow more efficient producers to expand operations, in a world now undergoing radical changes. Next, the resources of the member nations could be used more efficiently if they had common institutions, responsible for taking a comprehensive view of the European picture and empowered to make decisions for the general good. Finally the ECSC could facilitate the provision of a regular supply of coal and steel at reasonable prices.¹

¹ECSC 1962, High Authority Spokesman's Office, Information service of The European Communities, September, 1962, Luxembourg.

The ECSC proposal was intended to meet the above principles by making the coal and steel of the six countries available without tariff restrictions to all the 170 million customers of the Community. Also by establishing a common market it was hoped that all customers could be supplied at a supposedly best price. By ending sales, transport, and production inequalities often caused by subsidies and market discrimination, through instituting common rules of competition conditions would be improved. The ECSC would also create financing and marketing conditions which would enable the most efficient producers to expand their operations. The ECSC adopted a policy ensuring that the burden of economic and technical change such as unemployment was not borne by the workers. Finally the ECSC would give the power to implement and carry out tasks as an independent authority.

After the ECSC was formed in 1951 and began to show some success, the basic principles on which it was based were expanded leading to the formation of the European Economic Community (EEC) in 1957. Still later came Euratom, and today the ECSC and the EEC and Euratom together comprise the European Community. In effect the ECSC was a limited scale experiment with the common market concept. Tariff and quota restrictions on coal and steel were abolished, discriminatory transport rates were supposedly abolished, a common pool of labor and investment funds was created, and a regulatory authority was established to supervise the entire community.

Notably missing from membership in the ECSC is Great Britain. At the time of the formation of the ECSC, Great Britain consulted with the French over possible membership in the proposed institution but decided not to take part in the conference which drafted the Treaty. The kind of pooling of resources that the French had in mind was opposed by the British National Coal Board and to a lesser extent the British Steel Industry.¹

Probably the strongest reason for the British not participating in the conference and the ECSC was political. Although Sir Winston Churchill had indicated some personal support for regional integration, the British Labour Government strongly opposed British membership. The suggestion of British membership in a European coal and steel community was, in 1950, received by members of the Labour Government with unfriendly reactions ranging from cold to openly hostile.²

Acceptance of the ECSC within the countries that signed the Treaty was not always without political opposition. Even in France, the home of Schuman and Monnet, there was strong opposition to the ECSC as witnessed by the bulk of the Gaullist party voting against the ratification of the Treaty. Some minor political opposition remains even today

¹Miriam Camps, Britain and the European Community 1955-1963, Princeton, New Jersey, Princeton University Press, 1964, pp. 11-12.

²Colin Clark, The Common Market and British Trade, New York, Frederick A. Praeger, 1962, p. 8.

to the ECSC. For example, in the election of 1961, the Communists in Belgium blamed the ECSC for putting Belgium miners out of work by closing unproductive mines. Today most all political parties in the ECSC including the Gaullists, with perhaps the notable exception of the Communists, approve of their country's membership in the ECSC.¹

¹Richard Mayne, The Community of Europe, New York, W.W. Norton and Company, Inc., 1962.

Regulation of the ECSC

The governing body of the ECSC is the High Authority. The High Authority is the Executive of the ECSC. Its task is to achieve the Community's objectives as outlined by the Treaty. It is vested with supranational powers, enjoys financial independence, and represents the Community in its relations with the rest of the World. It supervises and enforces the rules of the Community. The High Authority is composed of nine members, who are appointed partly through nomination by the National Governments, and partly by co-option. Attached to the High Authority is the Consultative Committee composed of 51 members.

After the formation of the European Community three other institutions associated with the ECSC came into being. First was the Council of Ministers which is the Community institution that co-ordinates the work of the High Authority with that of the member National Governments. Next is the European Parliament, made up of 142 members representing the people of the member countries apportioned approximately by populations. Third is the Court of Justice which is responsible for ensuring the legal rights and responsibilities as laid down by the ECSC's constitution, the Treaty.

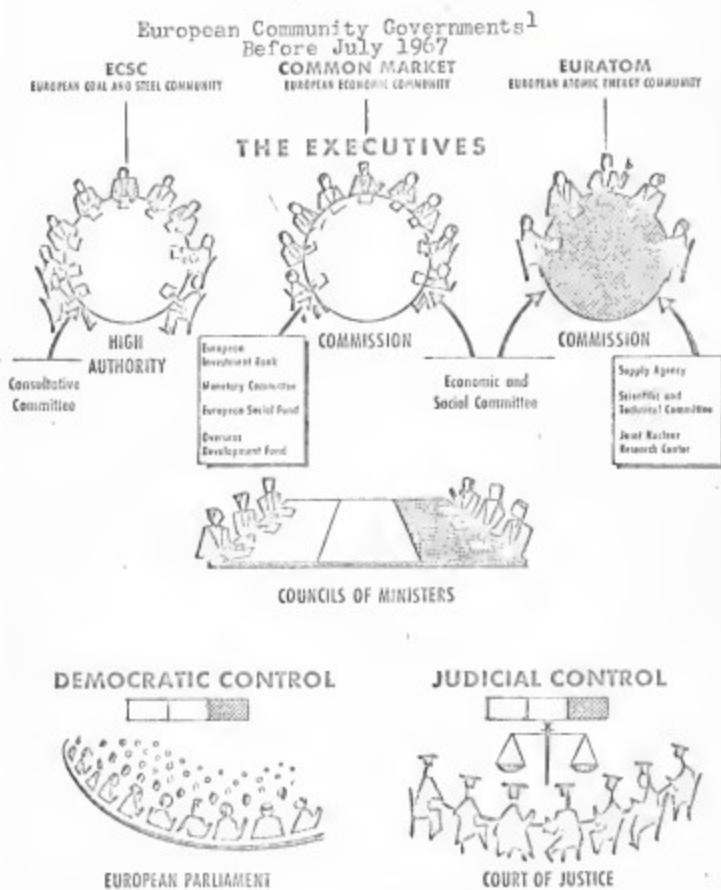
The Court of Justice has been active in ECSC affairs as it has decided important cases affecting ECSC policy regarding cartels and concentrations. The Court is mainly involved in judicial review of decisions of the High Authority dealing

with legal problems which may arise from the interpretation and application of the Treaty. Member governments, corporations and individuals have access to the Court of Justice under certain specified conditions.¹

Figure 1 shows the organization of the European Community Governments.

¹Henry A.K. Junckerstorff, International Manual on The European Economic Community, St. Louis, Saint Louis University Press, 1963, p. 58.

Figure 1



¹ECSC 1962, op. cit., p. 12.

Current Developments in the European Community Government

The European Community is presently involved in merging the three separate Communities into one unified Community under one government. The Brussels Treaty of April 8, 1965, went into force on July 1, 1967. This began with a unification of the Councils and Commissions as a primary step in uniting the Communities.¹

The executive branches of the European Economic Community, the European Atomic Energy Community, and the European Coal and Steel Community have now been united. The six member European Council of Ministers has assumed its duties and formally appointed 14 members of the new European Commission, which assumed its duties on July 6, 1967. Until the three treaties themselves have been consolidated, however, the new European executives will administer three original treaties of the Communities.

The European Council of Ministers underwent some institutional changes in its organization. The three councils have shared the same Secretariat since 1958. Now, the ECSC Special Council of Ministers has been amalgamated with the EEC and Euratom Councils. The European Commission has been reduced to nine members serving four year terms. This is reduced from 14 on the old commission which was the High

¹Jean Rey, "July 1, 1967" European Community, July-August 1967, Publications Department of the European Communities, Brussels, pp. 3-4.

Authority plus the Euratom Commission. Commission members will be appointed by mutual agreement of national governments. The merger treaty does not alter the powers or responsibilities of the institutions or their relations with one another. The single Commission will exercise the powers and responsibilities which were formerly the responsibility of the High Authority and the Commissions and will be responsible to the European Parliament for its actions. A more important role is allocated to the European Parliament under the new treaty than under the ECSC Treaty.¹

The merger of the Community's three governments into one is now taking place. This new government has not yet had time to make itself felt in the ECSC and is at present operating, with regards to coal, under the ECSC Treaty of 1951. Since the new government will probably not make major changes in the High Authority's policies and since it has not totally evolved as a working unit at this time, this report will consider the ECSC for only the period that it was governed by the High Authority.

¹"New Institutions" European Community July-August 1967, Publications Department of the European Communities, Brussels, p. 4.

Application of the Principles of the Treaty

Firms operating under the ECSC are basically free to set their prices. The ECSC attempts to keep competition fair by requiring that prices be disclosed to allow greater market knowledge and help avoid unfair price discrimination. To achieve this the High Authority requires all firms to publish price lists and to adhere to them with some specified exceptions. The exceptions basically permit firms to meet competition thus allowing for a somewhat flexible market. To date this goal has been fairly successfully fulfilled.¹ The ECSC does, however, have the power to impose maximum and minimum prices and introduce compensation schemes.

The ECSC has a goal of prohibiting producers or groups of producers from exercising or controlling other producers or the market through price or market fixing, through private agreements, either explicit (cartels) or implicit (concerted practices). It should be noted that regulated cartels are tolerated under some conditions. The ECSC Treaty contains, however, probably the strongest legal basis for anti-trust operations yet seen in Western Europe.²

¹ECSC 1962 op. cit., p. 14.

²"Twenty Questions," European Community, March 1964, Publications Department of the European Communities, Brussels, p. 2.

Agreements among firms are usually forbidden but, specified agreements under some conditions can be authorized, by the High Authority. All mergers among firms under the ECSC's authority must be approved by the High Authority. National governments have little if any influence or authorization to deal with firms under the ECSC in matters over which the ECSC has jurisdiction.

Since the cost of transportation is an extremely important element in the coal and steel markets, the ECSC has adopted rules for the purpose of maintaining fair competition. It has attempted first to abolish discrimination in rates, secondly to introduce new international rates making it more feasible to ship between member nations, and thirdly to harmonize transportation rates and conditions for treaty products.¹

The first two objectives were quickly achieved for rail transportation. As for the third many problems still exist. There is still a great deal to be done in other forms of transportation such as inland water and motor transportation where there are no definite rate-making arrangements in some member countries. In rail transportation of ECSC products, significant rate reductions have been realized.²

¹ECSC 1962, op. cit., p.16.

²Ibid., p. 16.

The High Authority has the task of stimulating growth through investment in the industries under its control. This it has done by granting or guaranteeing loans to firms. Loans have come from within, as well as outside the Community. The High Authority was given power to levy a tax on annual turnover which recently was fixed at the rate of 0.25% of turnover.¹

Initially the ECSC was quite successful in stimulating capital expenditure. This was especially important before 1957 when there was a shortage in the coal market. Since then, coal mining has turned into a condition of glut and producers in many cases are attempting to cut rather than raise their total production. In some cases coal producers are attempting to modernize their production to increase efficiency. Capital expenditures reached a high in the ECSC coal industry in 1957 when some 478 million dollars were invested. Since then capital expenditures for coal have dropped off slightly, falling to 377 million dollars in 1961.² Coal mining investment has been further aggravated by conditions in the ECSC steel industry, a major customer and owner of ECSC coal producers. In 1961 ECSC steel production dropped and large surpluses of steel began to pile up. These surpluses remained at a high level for the next

¹John Calman, ed. The Common Market, London, Anthony Blond, 1967, p. 41.

²ECSC 1962, op. cit., p. 18.

four to six years.¹

It now appears that the High Authority, so anxious to promote investment during the 1950's, may have been too successful in achieving this end.

¹"Europe Finds Growth Can Boomerang," Business Week, June 4, 1966, pp. 63-80, Number 1918.

CARTELS AND CONCENTRATIONS

Cartels and Concentrations in the ECSC
Countries Before the Treaty

Traditionally in Western and Central Europe, cartels, both national and international, have been commonplace if not predominant in both the steel and coal industries. In coal mining, monopolies, both private and public, were the rule although usually limited to a national scale. The coal mines of France were nationalized at the end of World War II as part of a practice to allow marginal industries to survive at public expense. Two-thirds of the Netherlands "production was owned and operated by the government under a law passed in 1908, and designed to forestall domination of the industry by foreign capital. Public ownership dates back into the latter part of the nineteenth century when the Prussian state acquired the Saar mines. Proprietorship often changed with the uncertain political status of the region. Although the overwhelming majority of the Ruhr coal mines remained in private hands, at least 80 per cent of their production fell under the control of a sales cartel founded as early as 1893 with the approval of the German government. In 1934 this cartel (Rheinisch-Westfalishes Kohnensyndikat) extended its influence over output to the Aachen area. Belgium alone was predominated by private ownership with two concerns, the Societe Generale and Launoit, controlling half of her output. In addition a sales cartel, the Comptoir

Belge des Charbons (CORECHAR), controlled some 60 per cent of the national output and the prices of the remaining independents as well. After World War II, Luxembourg, which mines little if any coal, authorized her Office Commercial du Ravitaillement to control all imports of coal. Italy has never mined coal in significant quantities and therefore, relies on coal imports for most of her solid fuel requirements.¹

The Steel industry, which has been and still is a large buyer of coal and, therefore, in a position to influence coal output and prices, has also been traditionally typified by cartels. Unlike coal, steel cartels have often been international in scope. The Cartel was the main form of organization of big European steel companies in the 1920's and 1930's. The International Steel Cartel, supported by steelmakers in Austria, Belgium, Czechoslovakia, France, Germany, Hungary, Luxembourg, and the Saar, functioned from 1926 to 1930, and was again revived in 1933 and tried to come alive again just before World War II. It controlled at its height, one-third of the world's steel production and two-thirds of its exports.²

Fearful of another revival of international cartels in steel and a revival of the old coal cartel pattern in the

¹Hans A. Schmitt, "The European Coal and Steel Community: Operations of the First European Antitrust Law, 1952-1958," Business History Review, Vol. XXXVIII, Spring 1964, pp. 102-104.

²Ibid., p. 103.

late 1940's it is understandable why nations such as France were anxious to have some form of international regulation of coal and steel production practices. France was particularly worried about German steel which had provided much of the might that allowed Germany to fight two World Wars. It should also be noted that Germany has the large coal deposits while France has large iron ore deposits. It has often been the case that the iron ore moves to the coal; that is, the large steel producing areas grow up mainly around the coal and not iron ore deposits. This is the case because it is more economical to ship iron ore than it is coal for the manufacture of steel. This is one reason why the German Ruhr has traditionally been a larger producer of steel than the iron ore abundant areas of France.

The French determination as could be seen by the actions of authors of the Schuman Plan, was to establish genuine competition in industries where it had been virtually unknown. During the negotiations which led to the formation of the European Coal and Steel Community, the French delegation stubbornly defended those features of the project which prohibited economic combinations in restraint of trade. It was noted that the community-to be must increase production and that past cartels had had as their purpose to control and reduce output, therefore, control of cartels was important. German and Belgian objections to this policy were voiced claiming that it would regulate business, as well as

cause jurisdictional conflicts with the national governments. Such objections failed to shake the French. Their reasoning was political rather than economic. The French knew that unless some limitations were imposed on formation of cartels under the Treaty, fear of German industrial recovery would defeat the Treaty in the National Assembly. The Germans, who saw in the Schuman Plan the means by which they could escape from the tutelage of the International Ruhr Authority, finally conceded the point, rather than risk complete failure.¹

The symbolic importance of the Schuman Plan was very important because it symbolized the end of Franco-German quarrels, as many believed that the new coal-and-steel pool would make war between France and Germany henceforth impossible.²

¹Ibid., p. 104.

²Hortlo W. Clark, The Politics of the Common Market, Englewood Cliffs, New Jersey, Prentice-Hall, Inc., 1967, p. 7.

Oligopoly and the ECSC Coal Industry

"The coal and steel markets are, at all events at producer level, oligopolistic in character."¹ The fewness and the size of the enterprises are for a large part dictated by technical production conditions, and in particular capital outlay. Also the enterprises, in this case the coal fields, are located close together, most of them being within a radius of a few hundred miles of each other. The illustration on the next page shows the distribution of the ECSC coal fields.

The High Authority in a report on cartels and concentrations characterizes the ECSC coal industry as oligopolistic in structure. "Capital-intensive enterprises with high fixed costs are subject to special production and marketing conditions, which are the reason for both the unusually wide variety of competitive devices they adopt and their pre-dilection for restricting competition."²

The report also states that:

The nature of concentration and of potentially restrictive inter-enterprise co-operation frequently differs very considerably according both to prevailing custom and to such factors as the state of fiscal and company

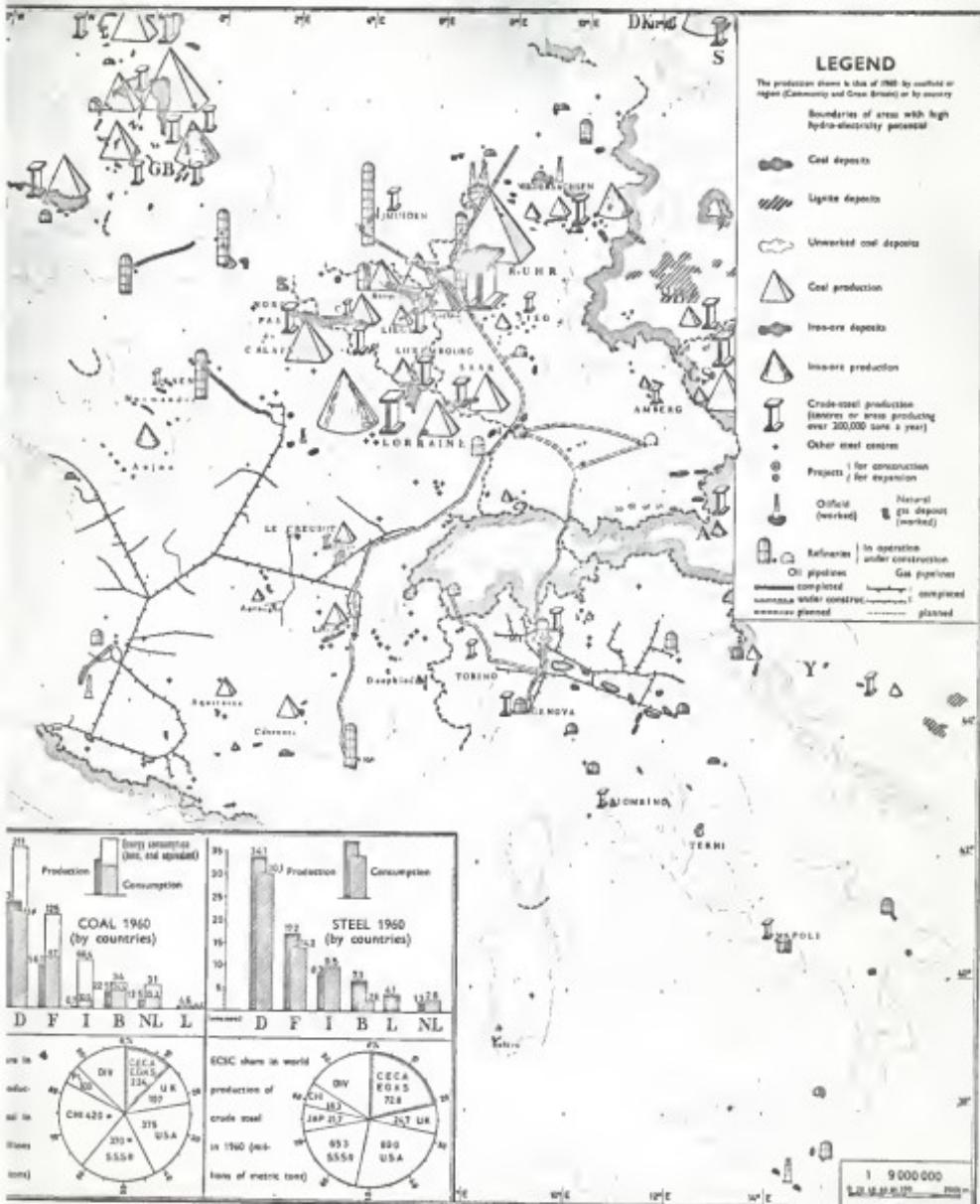
¹Report on the High Authority's Policy Concerning Cartels and Concentrations Luxembourg, European Coal and Steel Community The High Authority, April 20, 1964, p. 11.

²Ibid., p. 11.

Figure 2
The European Community

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ENERGY AND STEEL



law in the individual Community countries: this makes it difficult to compare degrees of concentration and the scale and implications of particular restrictive arrangements.¹

The report, however, points out that care has been taken by the High Authority in their assessing the enterprise pattern at any given juncture. Because of its experience High Authority believes that concentrations or extensions of enterprises tend to ensue elsewhere in the market. It is, therefore, necessary to determine to what extent there can be said to be sufficient existing balance in size as among competitors in the markets, with consideration given to the probable overall trend and to the probable reactions of the other competitors.²

The report emphasizes that there are other points which should be considered in addition to the size of the concentrations and enterprises. One of these points is the growth of market interpenetration in the Community which is reflected by the geographical composition of the relevant markets in the ECSC. The stronger the interpenetration becomes, the larger the segments of the market that are liable to be treated as relevant market for the purposes of making decisions on cartels and concentrations. A further consideration is the ability of competing enterprises to make independent and unbiased decisions concerning competition. The High Authority,

¹Ibid.

²Ibid.

in accordance with a European Parliament resolution, has recently in its authorizing decision, made these decisions subject to specific conditions concerning interlocking directorates of material links between enterprises, requiring these to be limited in scale to maintain competition.¹

In considering competition in the ECSC coal industry and the High Authority's policy concerning this competition, it is important to realize that the coal industry faces the oil industry on somewhat unequal terms. The oil industry is not governed by the ECSC treaty and it is a strong world wide organization which unlike the coal industry can quickly shift production and distribution patterns in response to changes in market conditions. The size and structure of the coal industry as compared with coal and other fuel industries is an important consideration of the High Authority when formulating policy.

In an oligopolistic industry, the industry can choose to compete not only at a level of full production but also at other levels of production, and even restrict output within the industry. It is possible at any level for price cutting to take place thus creating a situation which could be harmful to the industry and the Community as a whole. Realizing this danger, Article 60 of the Treaty requires enterprises to publish their price schedules. This regulation

¹Ibid., p. 12.

is rendered largely ineffective if non-Community suppliers come forward with low priced quotations based on prices that are below the total cost of production in hopes of creating a situation which might enable them to sell later a higher prices. This is especially true in steel although still valid in the case of coal.

Cartels, Concentrations and the High Authority

In 1952 the first important break in the traditional sympathetic European attitude toward cartels and monopolies took place when the European Coal and Steel High Authority assumed broad antitrust powers including the right to ban cartels and prohibit mergers. This move has had great influence on the Community in general as it set an important precedent for the antitrust provisions of the Rome Treaty that created the European Economic Community. The main purpose of this antitrust policy is to prevent cartels and monopolies from erasing the expansive economic effects of the customs union now rapidly taking shape.¹

The High Authority derives most of its powers and obligations regarding regulation of the coal industry from Articles 65 and 66 of the ECSC Treaty. Under these Articles the High Authority is charged with issuing decisions on specific cases, either in response to applications for authorization or on its own initiative. Through its decisions, the Authority has embarked on a systematic method of making policy in a structured and interconnected way as cases it rules upon establish precedent under powers granted by Articles 65 and 66.

¹Franklin R. Root, "Antitrust Policy in the European Common Market," Notes and Communications Quarterly Review of Economics and Business, Autumn 1963, Vol. 3, No. 3, p. 74.

Article 65 prohibits agreements, decisions, and concerted practices among enterprises, which tend to prevent, restrict, or impede, either directly or indirectly normal operation of competition within the ECSC. It also permits agreements of specialization and accords intended to market or purchase jointly specific products provided that this does not work against the objectives of the Community. Article 66 regulates Community policy toward concentrations of economic power rather than cartels. Concentrations which existed prior to the Treaty are exempt from the provisions of Article 66. In effect Article 65 is a blanket rule against all agreements which curtail competition whereas Article 66 specifically outlaws mergers which interfere with it. In carrying out the edicts of Article 66 the High Authority judges the legality of concentrations in light of conditions existing within the ECSC.¹

It is recognized today that competition is governed by many factors including the structure of the markets concerned, the number and weight of market operators, the elasticity of supply and demand, and considerations of location and the transport distances. The degree of competition, therefore, is not easily measured or regulated.²

¹Schmitt, op. cit., pp. 105-107.

²Report on the High Authority's Policy concerning Cartels and Concentrations, Op. Cit., p. 6.

The High Authority has realized that regulations established under the ECSC Treaty and the specific powers provided by the Treaty are not adequate by themselves to ensure that changes and development on the coal and steel market will take place in an orderly way. The Treaty assumes that, generally speaking, competition among the firms will be sufficient to provide this stimulus and direction except in cases where the High Authority is empowered or obligated to intervene by means specifically provided for. In the coal industry this assumption no longer holds when the position of Community coal vis-a-vis its competitors is primarily determined by government intervention.¹

Among the important changes in the position of coal in fuel market in the ECSC countries has been the tremendous growth in relative importance of other fuels. Since 1950 and especially since 1957, the position of the ECSC coal fields has become one of a precarious balance preserved by the ECSC authorities. A question remains as to what capacity should be maintained for reasons either of area policy or of security of supply.²

¹"Summary of the Introduction to High Authority 15th General Report" Spokesman, European Coal and Steel Community, High Authority, March 15, 1967, Luxembourg, p. 2.

²"Summary of the High Authority's Policy Report" Spokesman, European Coal and Steel Community, The High Authority, March 1965, Luxembourg, p. 9.

Today the ECSC coal industry finds itself in a state of structural contraction with its production declining, partly because of increasing competition from other fuels, partly due to imported coal, and partly due to geological reasons. This, in some ways, makes it even more difficult to stimulate competition in the industry.

In light of the above conditions the High Authority still accepts the competitive system and corrective mechanisms laid down in the Treaty; however, it realizes that these are not always adequate to attain certain desired objectives. The High Authority does, however, recognize the importance of competition as a spur to technical and economic progress. The High Authority claims to have every intention of seeing that competition is maintained. There are, however, limits to this and it is necessary to realize those limits, and to ensure, by appropriate corrective measures, that the process of adjusting to circumstances does not fall into general disorder.¹

Despite the Community's cartel-like powers, the intention of the Treaty as well as the work of the High Authority to date has been to provide a setting and structure for private economic activity which readily responds to economic opportunity.

¹Summary of the introduction to the High Authority 15th General Report, op. cit., p. 2.

As stated before Article 65 of the Treaty forbids restrictive agreements and practices of all forms. Article 66 of the Treaty subjects all proposed "concentrations" of firms to prior approval by the High Authority. This approval is to be denied where the result impairs the maintenance of effective competition.¹

More specifically Article 65, contains the following provision: "All agreements among enterprises, all decisions of associations of enterprises and all concerted practices tending to prevent, restrict or distort the normal operation of competition are...null and void and may not be invoked before any court in the member States."²

In practice and by the rules of the Treaty the High Authority has broad sweeping powers to break up any combination which it feels restricts or forbids competition which is not in the best interest of the Community. There are exceptions to this power; for example, the High Authority has no jurisdiction over agreements and concentrations affecting "third countries" that is Community dealings with those outside the ECSC. It might be pointed out that as conditions now exist, really effective cartelization in coal extending to non-Community markets is hardly practicable,

¹Norman J.G. Pounds, and William N. Parker, Coal and Steel in Western Europe, Bloomington, Indiana University Press, 1957, p. 362.

²Report on the High Authority's Policy Concerning Cartels and Concentrations, op. cit., p. 15.

unless in respect of purely localized markets.¹

When a concentration is proposed, the High Authority is required by the treaty to review the proposal and, if it can not show that certain prohibited conditions will result, it is obligated to allow the concentration to proceed.

Basically the conditions prohibited fall into two categories. The first condition is aimed at preventing an enterprise from emerging through horizontal merger in a position in which it could control or have decisive influence in the markets in which it operates. The second condition falls into the area of preventing an enterprise through vertical merger from causing maldistribution of resources. An example of such a case might be where a steel company, attempting to gain a reliable source of coal, gains control of coal producing facilities and thus prevents a more efficient producer from expanding for lack of coal supplies. What is important is that it is not necessary in some cases for the enterprises proposing to combine to demonstrate that their concentration will have any beneficial effects either for themselves or for the economy of the ECSC.²

One of the main purposes of the ECSC is to promote the improvement of production and it is for this reason that the High Authority takes an interest in the technical effects of

¹Ibid., p. 17.

²D.L. McLachlan and D. Swann, Competition Policy in the European Community, London, Oxford University Press, 1967, pp. 199-203.

the proposed concentration. Often one sees in High Authority decisions reference made to the improvement of productivity which will be gained through a given concentration. What one must remember in assessing the case is that even if such an improvement was not expected this might not have been sufficient reason to forbid the merger. The only conditions under which the positive effects of a merger are given any weight in deciding upon the proposed merger is when an element of doubt exists in reference to the negative criteria. If such doubt does exist then it is up to the High Authority to use discretion in making its decision. Usually this discretion will fall into two areas of consideration. They are first the positive effects of the merger and second the size and operations of similar existing enterprises.¹

Often the High Authority has had to use discretion in deciding important cases, cases which often set precedent. This is why so many of the important decisions concerning proposed concentrations went to great lengths to assess the positive effects of the combination and the nature of the other firms in the industry. It now appears that since an element of doubt exists concerning the negative effects of many of the proposed concentrations that the positive effects of proposed concentrations have become an important consideration of the High Authority in deciding upon the mergers.

¹Ibid.

One question that is often asked is why some cartels and concentrations were permitted. What must be remembered is that there may have been no sound economic reason for their approval. Their existence results only from their approval due at the time of the concentration to the lack of evidence of prohibited conditions existing. This is why justification for many of the concentrations approved is hard to find either by one's own logic or in the publications of the ECSC.

In making a comparison between American and ECSC anti-trust regulation, one finds some important similarities between the two systems.

The American example has been most helpful to those who drafted Article 85 and 86 of the EEC Treaty and, earlier, Articles 65 and 66 of the ECSC Treaty. The first three practices listed in Article 85 which regulates agreements between enterprises correspond to per se violations of the United States law. The fourth practice on discrimination is prohibited in the Robinson-Patman Act, and the fifth practice outlawing trying agreements resembles Section 3 of the Clayton Act.¹

There, however, are important differences between ECSC and American anti-trust regulation. Probably the biggest difference between U.S. and ECSC laws is that the ECSC laws distinguish between "good" and "bad" contracts, combinations, agreements, or conspiracies in restraint of trade. This is all illegal under U.S. law although in deciding punishment

¹Franklin R. Root, "Antitrust Policy in the European Common Market" op. cit., p. 77.

for offenders performance is taken into account by U.S. courts. There is a fundamental difference in the underlying philosophy of the ECSC system as consequences of association or similar arrangement are explicitly taken into account in deciding the legality of cases. Another important difference is in the penalties for violation of such acts. In the ECSC a violating concern is fined but the management of the guilty concern is not personally held responsible. In contrast, in the United States the management can also be held personally responsible and even jailed as in the case of some General Electric executives who were sent to jail for restraining trade in the field of electric power equipment. The ECSC laws also cover only trade within the ECSC countries where as the Sherman Act covers both interstate trade and U.S. trade with foreign nations.¹

The whole question of market structure and regulation in regards to coal selling has been bound up by the changing coal situation in the ECSC. Coal production in the ECSC rose during the early 1950's as the ECSC member Countries experienced a post World War II boom. Coal production reached its peak in 1956 as the member Countries produced nearly 250 million metric tons of coal. In the period from the founding of the ECSC to the 1956 to 1958 period the High Authority was mainly concerned with increasing coal production

Ibid., pp. 75-77.

to fuel the growing economies of the member countries. Since 1956 the problem has reversed itself, coal production has fallen off. The coal mining industry has become a declining industry due to the competition of other fuels. The importing of cheaper coal, and for geological reasons the demand for domestically produced coal has been reduced.

A major crisis in the coal markets of the ECSC accompanied the slackening in the rate of industrial activity beginning in 1957 and continuing into 1959. The lowering in the rate of industrial activity together with a succession of mild winters and the increased use of other fuels created a crisis in the coal industry which changed the position of that industry. Before 1958 all efforts were on increasing coal production but then in 1958 coal stocks soared to over 20 million metric tons. After 1958 the emphasis was changed to seeking a level of output of coal which would facilitate the production of those types of coal most suited to the changed market conditions.¹

Much of the crisis was centered around the inefficient Belgian pits which had not been closed soon enough. It was their expensive output that was largely responsible for the large unsalable coal surplus. The future of the ECSC was in doubt for a while, but the beneficial effects of steel production and prices seemed to overshadow the coal crisis.

¹W.G. Jensen, The Common Market, London, G.T. Foulis and Co. Ltd., 1967, p. 41.

Since then coal stocks have fallen to a more reasonable level.¹

Coal provided, in 1950, 80 per cent on the ECSC's energy supplies. By 1958 coal supplied only 64.5 per cent of the energy needs and by 1960 this figure had dropped to 59.5 per cent. Meanwhile natural gas had increased its share of the energy market from 13.1 per cent in 1950 to 27.4 per cent in 1958 and to 32.3 per cent by 1960. As can be seen from these figures, coal's share of the energy market is greatly diminishing.²

In effect the coal industry is experiencing a structural crisis. Rising costs, especially in some areas like southern Belgium, together with a lowering of demand have placed the coal industry in a distressed condition. Efforts on both the part of the Community government and the individual member country governments have made an attempt to alleviate the situation. Efforts have been made to slow or reverse the trend by cartelization in the fullest. Figures 3 and 4 show the production of coal in the ECSC and indicate the trend of production. Figure 6 is the number of coal miners employed below ground which initially fell from 1953 to 1956 due in large part to closing of some inefficient mines and

¹Charles A. Cerami, Alliance Born of Danger, New York, Harcourt, Brace and World, Inc., 1963, p. 25.

²Mayne, op. cit., p. 45.

the introduction of more efficient means of mining. The later sharp drop off of miners employed was probably due in large part to the fall in demand for coal.

Figure 7 shows the trend in consumption of hard coal and briquettes, by sectors. It should be remembered that in Europe the term hard coal refers to all coal except lignite, not just anthracite coal as the term is sometimes used in the United States.

On July 11, 1953, the High Authority ordered all agreements which at that time were running counter to the principles of the Treaty to be dissolved by August 31, 1953, unless an earlier liquidation date had been set, or unless a request for authorization had been submitted before the deadline and was still under consideration at its expiration. Due to the shortage in the supply of coal at the time, the High Authority found it necessary to back down at least partially on the order. As the ECSC's steel production rose and the member countries enjoyed a post war recovery boom a shortage of coal developed. Mainly as a result of this the High Authority found it necessary to accept cartels as temporary devices, authorized in times of shortage as long as this could be justified to assure uniform non-discriminatory supplies of coal to all customers. When a cartel received temporary sanction under special circumstances, it had to submit to the High Authority a comprehensive distribution plan before



Fig. 3. Coal Production in ECSC ('000 metric tons)

Ruhr	+ 1.5	Limburg (Bath)	+ 0.7
Saar	=	Campine (Belg.)	- 1.0
Nord et Pas-de-Calais	- 8.4	Auvergne	+ 29.8
Brabant Sud	- 42.3	Centre-Midi de la France	- 14.6
Lorraine	+ 14.0	Sulcis (Italy)	- 31.2

(1) Iam, Bruxelles, Paris, Alzette, Aachen and Dauphiné

Fig. 4. Trend of Coal Production 1952-1961 (in %)

1 "ECSC 1962," Ibid. p. 32.

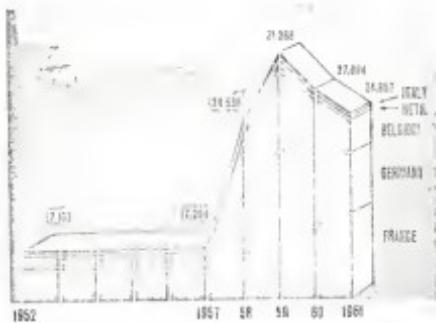


Fig. 5 Total Coal Stocks at End of Year
('000 metric tons)



Fig. 6 Miners Employed Underground in ECSC

"ECSC 1962," Ibid., p. 33.

Figure 7
Trend in consumption of hard coal and briquettes, by sectors¹

Sector	1953	1957	1961	1964		1965	
	'000 m.t.	1953 = 100	1953 = 100	'000 m.t.	1953 = 100	'000 m.t.	1953 = 100
Bituminous power-stations	14,019	138	127	22,667	157	20,000	143
Public power-stations	20,627	124	134	31,093	165	31,700	168
Coking plants	89,763	125	121	97,487	121	97,300	120
Total, 1 + 2	115,409	126	124	153,617	133	152,000	132
Sales to households	31,434	128	101	34,903	110	32,360	95
Industries other than iron and steel	33,863	108	91	28,950	80	25,490	71
Railways	18,928	90	61	9,615	47	6,900	36
Iron and steel industry	4,410	96	78	3,230	73	3,600	68
Collieries' own consumption	11,025	83	65	6,295	57	6,000	54
Miners' commensuary coal	5,561	100	89	4,335	78	3,600	62
Gasworks	11,748	103	75	7,105	66	5,500	55
Grand total	232,693	115	103	253,210	104	237,600	98

¹14th General Report of the Activities of the Community (February 1, 1965-January 31, 1966) Luxembourg, The European Coal and Steel Community, The High Authority, March, 1966, p. 101.

Table 1

Movement of the Overall Position of Hard Coal and
Briquettes in the Community¹

(000,000 metric tons)

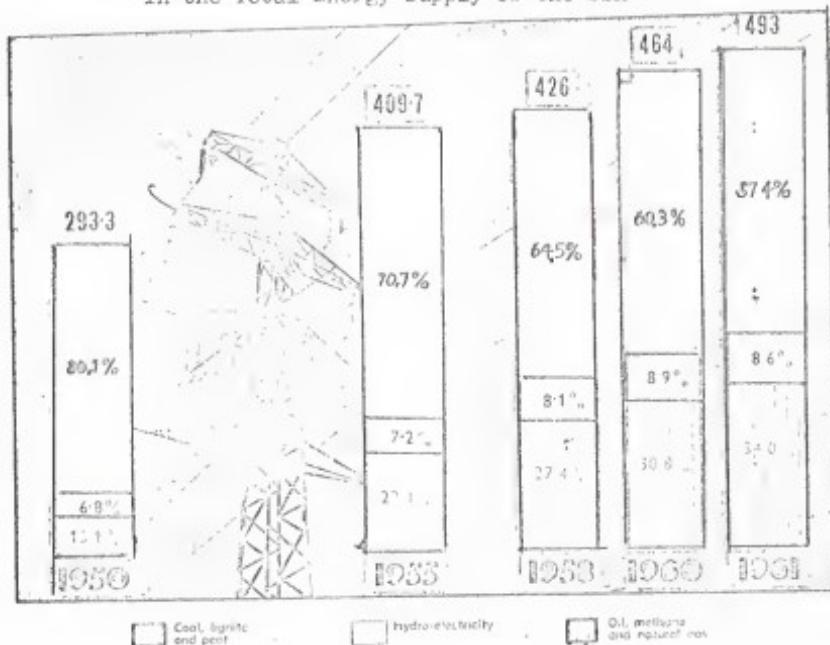
	1962	1964	1965
Community consumption ¹	258.2	253.2	237.5
Changes in consumers' stocks ²	- 2.3	+ 0.2	- 0.5
Intra-Community disposals	255.9	253.4	237.0
Exports to third countries	4.8	2.9	2.0
Total demand	260.6	256.3	239.0
Production ³	228.4	230.4	220.0
Imports from third countries	23.6	31.1	29.0
Changes in producers' and importers' stocks	- 8.5	+ 6.2	+10.0
Total supply	260.6	255.3	239.0

¹For household sector sales.²Exclusive of household sector.³Including pitch for briquetting purposes; low-grade products
in tons of saleable coal.

114th General Report of the Activities of the Community
(February 1, 1965-January 31, 1966), op. cit.

The following Figure shows the declining trend of coal as compared to other fuels as a supplier of fuel energy in the ECSC.

Figure 8. Shares of the Different Sources of Energy in the Total Energy Supply of the Six¹



¹In ECSC 1962, *op. cit.*, p. 30.

being allowed to proceed.¹

It should be emphasized that the High Authority exercised a great deal of flexibility in handing down decisions as the Treaty only outlines broad principles which the High Authority must interpret in the way they see fit. Under the terms of the Treaty the High Authority is required to ensure by its decisions and actions that a sufficient degree of competition is maintained in ECSC markets for coal and steel, so that the general goals of the Treaty may be attained.²

The effect of the High Authority's policy has been to approve larger and larger concentrations within the ECSC. Often the High Authority will use the existence of large concentrations in countries outside the ECSC as justification of large ECSC concentrations.

The size of the biggest concentrations in third countries is a factor in deciding what is appropriate and permissible for the ECSC. In most economic markets the scale of the enterprise is largely governed by the general pattern of the economy and gains its efficiency through the interplay of all the factors involved. Another important factor in considering the appropriate size of an enterprise is the size of other competing firms in the market as well as other

¹Schmitt, op. cit., p. 109.

²13th General Report of the Activities of the Community (February 1, 1964-January 31, 1965, The High Authority, Luxembourg, European Coal and Steel Community, March 1965, p. 164.

firms in the Community in general. It is the above conditions that the High Authority considers in its governing of the ECSC. In light of the above criteria the High Authority does not feel that uncontrolled concentration has led to para-monopolistic market patterns and thus lowered efficiency in the economy at this time.¹

The High Authority has indeed acted with a flexible policy concerning combinations. They have sanctioned concentrations when they felt that such concentrations would substantially improve the production of products in question. Similar circumstances prompted the sanctioning of the joint sales organization (Aachner Kohlen-Verkauf GmbH) comprised of three mines in the Aachen area and of an almost identical combine in lower Saxony (Niedersachsische Kohlen-Verkaufs GmbH). A combined outlet comprised of several mining enterprises was accepted as a more efficient and economic means of supply than separate marketing by each firm alone.² It was probably the High Authority's reasoning here, as it is in many cases that although when two concerns merge competition ceases, the new market position enjoyed by the new cartel or combination is stronger thus allowing the new enterprise to more effectively compete with other firms in its industry or with closely substitutable products.

¹Ibid., p. 164-5.

²Schmitt, op. cit., p. 110.

The above authorizations established within Article 65 of the Treaty,

' . . . A clear precedence of Section 2 over Section 1, provided the High Authority found: (a) that such agreements constituted 'substantial improvements' in sales and production; and (b) that these 'substantial improvements' could not be brought about any other way. The largest subsequent implementation of this principle occurred, of course, in the Ruhr, where a 'troika' of three large sales companies obtained the right to dispose of the output of the largest coal producing area in Europe.¹

Schmitt goes on to point out that "The permissiveness of Section 2 found still other application. Agreements violating the letter of Section 1 might be authorized under Section 2 if the volume of business was negligible."²

In 1955 the High Authority demonstrated that it could be hard, as it dealt rather severely with the German scrap-consumer cartel. It also showed that its generosity concerning sales cartels had limits. The OKU (Oberrheinische Kohlenunion) Cartel had enjoyed a sales monopoly in southern Germany for all coal originating in the Ruhr, Aschen, Lorraine, and the Saar, or two-thirds of the Community's output. This cartel clearly violated the intentions of the ECSC Treaty. In the resulting reorganization of OKU by the High Authority the former sales monopoly received permission to act as agent for South German dealers in all large production centers of

¹Ibid., p. 110.

²Ibid., p. 111.

the Community. All participants were required to observe three conditions. First producers could not belong to the organization. Second wholesalers could either buy from producers directly or through OKU, but could not do both; and third membership in the organization must remain voluntary. As long as these three conditions were observed, the High Authority thought that OKU could stay within the limits of the law as stated in the Treaty.¹

Another difficult and so far not totally resolved case involved the Ruhr sales cartel Gemeinshafts-Organization Ruhrkohl, often referred to as GEORG. This powerful organization was monopolizing the distribution of more than half the ECSC's coal-mining capacity. After being broken up by the Allies into six sales companies, the complex had regrouped under joint management. The High Authority, in a series of controversial decisions, broke up GEORG into three autonomous concerns. It was soon discovered that these three concerns were not autonomous in practice as the High Authority had planned. Inspectors from the ECSC found on an office directory in Utrecht three separate listings for three concerns representing Ruhr coal sales, but upstairs they met one agent acting in fact for all of them. A variety of similar experiences prompted the High Authority to conclude that the settlement was not workable and, therefore, illegal. In 1959

¹Ibid., p. 112.

it gave notice to all parties that the existing arrangement would continue on a year-by-year basis until a new arrangement could be negotiated. Today two selling agencies operate in the Ruhr and they are discussed later in this report.

Another important case involving a coal monopoly dealt with by the High Authority involved the French government supervised monopoly Association Technique de l'Importation Charbonniere (ATIC). After concluding their first decision on the Ruhr coal case the High Authority turned its attention, under powers granted by Article 65, to ATIC. In June of 1956 the ECSC decided that the functions of ATIC were incompatible with the Treaty. Although the French government at once offered to reduce the monopoly's role from outright purchaser to agent, the Community continued to insist that ATIC constituted an illegal interposition between consumer and source of supply. A new High Authority decision of December 18, 1957, reaffirmed that France was violating the Treaty. Rather than going to court, negotiations continued, with the result that ATIC remained in existence as "pro-forma" agent in the conclusion of purchase agreements, but under the supervision of the High Authority, rather than the French Government. What effects this decision will have on its ability to end ATIC as a chronic violator of existing regulations remains to be seen.¹

¹Ibid., pp. 112-13.

During its first five years while operating under Article 65 no significant experience in regard to penalties was gained by the ECSC, mainly because there were no known cartels under the Treaty which had been organized without High Authority supervision. Regulations and prohibitions had been formulated in response to requests duly made, or in response to activities openly pursued.

An important question arises in regard to the action of the ECSC and the High Authority's attempt to regulate the ECSC market structure. The question is whether or not competitive habits can be artificially induced in the coal industry where structure and peculiar problems have always discouraged them. Since the founding of the ECSC there has been no indication of a trend toward more vigorous economic rivalry among ECSC producers. Evidence would point to the opposite happening with ECSC mines experiencing difficulty in competing with imported coal and other sources of energy such as petroleum and nuclear energy which in the long run may make them altogether superfluous.¹

¹Ibid., p. 113.

Concentrations and The Court of Justice

The highest place of appeal in the European Coal and Steel Community rests with the seven-member Court of Justice of the European Community. On occasion the Court has acted upon cases concerning concentration in the ECSC. In one such case German Ruhr coal operators carried on a battle with the ECSC over the legality of creating a unified sales organization for Ruhr coal. The ECSC forced a number of reorganizations, but there was a tendency on the part of the Ruhr firms to return to their sales pool. Finally in 1962 (*Ruhrkohlen-Verkaufsgesellschaften v. High Authority*) the Court forbade the pool and decided that at least three sales organizations would have to exist in order to meet the antitrust standards of the Treaty, but there was nothing it could say in its opinion that would make the Ruhr coal operators believe it had been economically right.¹ Criticism of this decision has been quite strong from public relations offices to the pages of such popular periodicals such as *der Spiegel*.¹

What had happened in the above case was that the Ruhr mining companies had submitted an application in December of 1959, asking for authorization to set up a single agency to sell jointly on behalf of all Ruhr collieries. The application was withdrawn in February of 1960 and after modification

¹Clark, op. cit., p. 128.

resubmitted on May 1960. The High Authority rejected the application and the mining companies appealed the decision to the Court of Justice. The Court dismissed the appeal and so upheld the High Authority's decision.¹

A similar case was decided against the Belgian coal mining industry's effort to establish a single tightly-knit selling agency for all the country's collieries while the Belgian coal market was temporarily sealed off under Article 37 of the Treaty, an article giving Belgian coal a special status due to its uncompetitive situation in comparison to other ECSC coal producing areas. This case was also decided against the producer by the High Authority which concluded that such an agency would restrict competition too much.

Finally the Belgian companies, after negotiations, submitted a new application asking permission to institute much more loosely-organized joint-selling arrangements, with some companies left unaffiliated. In January of 1963 the High Authority gave its conditional approval to the new agency known as Cobechar.²

As for more recent developments in the problem of authorizing Ruhr coal-selling agencies, the High Authority

¹Report on the High Authority's Policy Concerning Cartels and Concentrations, op. cit., p. 18.

²Ibid.

has approved the institution of two separate agencies for marketing Ruhr coal, which it considers definitely do insure the minimum amount of competition the Court interpreted the Treaty as demanding.¹ The Netherlands Government launched an appeal against the authorization of "Geitling" and "President" selling agencies. As a result of this appeal against the authorization of the two Ruhr selling agencies, Prof. Muller-Armach was commissioned to make an inquiry into the operation of the selling agencies. This report is not yet available.²

On April 28, 1965, the High Authority gave permission for Vereintigte Elektrizitäts-und Bergwerks AG(VEBA) to acquire approximately 80% of the share capital of Hugo Stinnes AG, both of Germany. VEBA is a holding company owned exclusively by the Government of the Federal Republic of Germany. The government controls directly the Saarbergwerke and Salzgitter company which in turn controls a number of collieries and dealers including Bergwerkgesellschaft Hibernia A.G., through VEBA. Hugo Stinnes A.G. controls the colliery company and Mathias Stinnes A.G. and its distribution subsidiaries. This concentration brings the share of the Government-controlled enterprises in total German

¹Ibid., p. 22.

²14th General Report of the Activities of the Community (February 1, 1965-January 31, 1966), Luxembourg, European Coal and Steel Community, High Authority, March 1966, p. 166.

production, in 1963 figures, up from 24.6 to 27.2% for coal, from 16.8 to 18.5% for coke, and from 4.4 to 20.4% briquettes.¹

In authorizing the VEBA acquisition of the controlling interest in Stinnes the High Authority satisfied itself that the enterprises concerned were effectively in competition with other Community and non-Community coal producers and with firms marketing substitute fuels. In making its decision there was no apparent concern over the German government extending its control into the coal market. The decision was made on the basis of the firm rather than the owner, the government, which controls several firms through holding companies. It would appear from this data that there is little concern over government control of firms and the possibility of the government and/or government owned firms gaining unfair or too strong control of an industry. This might be contrasted with a somewhat opposite situation in the United States where for example some of the private owned power companies have for years waged a strong protest over the government control of the Tennessee Valley Authority.

In several other decisions the High Authority was asked to rule on concentrations and cartels concerning coal producing and marketing firms on the French coast. In one case,

¹Ibid., p. 173.

four coal-producing and distributing firms applied to form a joint company pooling their plant for crushing, screening, and washing imported coal. Three of them wished to form a second joint company, pooling their briquetting plants. In this case the High Authority concluded in its ruling that insofar as they are industrial, the relevant operations aim at rationalization, which is desirable and indeed frequently essential. After they satisfied the High Authority's order that they be isolated from the commercial operations and agreements which were not essential to the industrial operations, the concentration was approved.¹

The High Authority also ruled in favor of a merger of two coal mining concerns on the basis of rationalization of production even though they were comparatively large producers. The High Authority's policy had been where coal mining is involved to fix 7,500,000 tons annual capacity, or 3 per cent of the total output of the common market, as the maximum permissible concentration. One notable exception to this rule was when it allowed the combination of two German mines, Hibernia and Emscher-Lippe Bergwerke AG, with a combined annual capacity of 11,100,000 tons. The High Authority argued that it was applying Article 2 of the Treaty which called for a rationalization of production. Since the coal fields of these two firms were adjacent, they reasoned

¹Ibid., p. 176.

that a pooling of management could be expected to bring about a more economical use of the resources available through the lowering of overhead costs by joint use of existing power supplies. This large cartel accounted for about five per cent of the mining capacity of the Community.¹

¹Schmitt, op. cit., p. 114.

Vertical Concentrations

Within the European Coal and Steel Community, vertical concentrations today involve a large portion of coal industry. Although the High Authority rules on vertical mergers they do not usually consider them very important in their literature.

It, however, is important to look at the vertical concentration situation in the ECSC for two reasons. First, it maybe possible to shed some light on why the High Authority does not consider them important and to see if in fact they do not comprise a significantly large portion of the ECSC coal output. Secondly, there has been a considerable amount of suspicion and fear surrounding mergers between steel and coal firms mainly as a result of a high degree of such concentration during and before the Second World War, especially in Germany.

"Nevertheless, the dramatic view has prevailed in many ideologically disparate quarters that a resurgence of giant, cannon-making steel barons in western and central Europe is not only inevitable, but is being aided and abetted by the European Coal and Steel Community."¹ Such an assessment that would predict a resurgence of the old steel and coal barons, especially in Germany, appears from both a political and

¹Ibid., p. 115.

economic standpoint to be wrong. As will be stated and elaborated on, many of the steel concerns have found the conditions of the 1930's and 1940's when the steel concerns owned a large portion of the coal mines to be conditions which should be avoided today for such reasons as the high cost of much of the coal production in the ECSC as compared to imported coal. Also many of the so-called old cannon-making barons are experiencing severe difficulties and finding their operations too widely diversified at the present time. One old coal and steel giant, Krupp, has had to diversify its control and undergo a vast reorganization just to remain in operation. One popular business magazine reports on "The Fall of the House of Krupp" and also reports that Freidrick Flick, another giant in the steel and coal industry of Germany of the thirties and forties has diversified and dropped a large portion of its steel production and most of its coal production.¹

Suspicions of new or regained vertical concentrations of steel and coal were quite widely shared, especially during the early and middle 1950's and were mainly based on the assumption that steel companies would make an effort to safeguard their coal supply in times of shortage. The High Authority considered the steel companies' desire to safeguard

¹James Bell, "The Fall of the House of Krupp" Fortune August 1967, Vol. LXXVI, No. 2, pp. 72-81 plus.

their coal supply a legitimate goal. It even conceded that steel producers acquisition of coal mining operations somewhat in excess of their normal needs was good practice. As long as such vertical combinations reflected no attempt to escape competition and did not constitute a dominating position in the price structure of any substantial part of the market, the High Authority would be likely to give its approval.¹

After the change in the coal market from shortage to glut in about 1957 the High Authority was quick to realize that vertical concentrations where steel producers gained control of coal production might someday work against the owners. They realized that in some cases American coal could be used at a lower cost thus leaving the steel companies with mills which would become increasingly uneconomical. The High Authority, therefore, realized that it was important that coal producers increase their efficiency of operation. The High Authority has, therefore, initiated a program to help increase efficiency in coal mining. However, geography and geology frequently make increased efficiency difficult if not impossible. The High Authority appears not to consider the possibility of a coal mining operation becoming a burden on its owner as a criterion for rejecting a merger application. No objections were raised by the High Authority

¹Schmitt, op. cit., p. 115.

over the Hoesch firm's acquisition of the Altenessen Mining Company or over Luxembourg's Acieries Reunies de Burbach-Eich-Dudelange (ARBED) acquiring the control of Bergbau A.G. Lothringen. Each of these mines produced about three per cent of the Community's output. It was felt that this capacity was not large enough to give the owners a controlling position in any market. In neither case did a vertical merger come close to challenging the enforcement of Article 66.¹

Table 2 and Figure 9 give a comparative view of ECSC Steel producer concentration and those of selected countries.

Table 3 gives some indication of the nature of some of the concentrations, both horizontal and vertical that have taken place in the ECSC in regard to the comparative size and the nature of the concentration. Table 3 is not a complete listing of all concentrations formed under the ECSC as it only covers the period 1953-1958, a period mostly characterized by growth in the coal sector. The table, however, is valuable in that it does give an indication of the comparative size and nature of typical concentrations within the ECSC.

¹Ibid., p. 115-6.

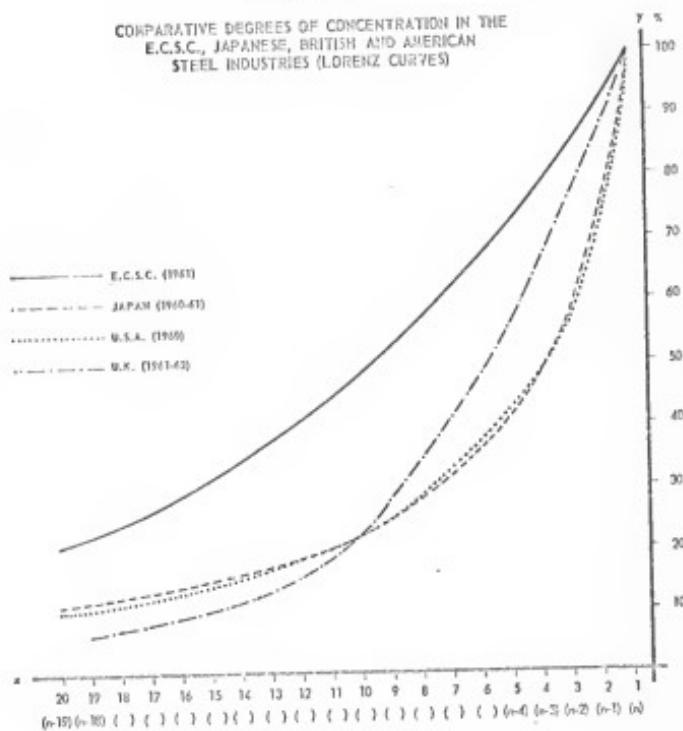
Table 2
 Comparative
Distribution of Steel Production among
the 20 Largest Enterprises of the Community,
Japan, Britain and the United States,
1960-62

Order of enterprises or groups of enterprises	E. C. S. C.		Japan 1960-61 %	U.K. 1961-62 %	U.S.A. 1960 %
	% (1)	% (2)			
1	7.9	9.7	24.7	12.1	28.2
2	7.2	7.9	17.2	11.6	15.5
3	6.7	7.2	10.4	10.1	8.6
Top	3	21.8	24.8	52.3	52.3
	4	5.8	6.7	6.9	10.1
	5	5.4	5.8	4.5	8.6
	6	5.1	5.1	4.3	6.6
	7	5.-	5.-	3.8	6.6
	8	4.7	4.7	3.6	6.3
	9	4.3	3.9	2.8	6.1
	10	3.9	3.4	1.6	4.1
Top	10	56.-	59.4	79.8	80.-
	11	3.4	3.2	1.4	2.5
	12	3.2	3.-	1.4	2.2
	13	3.-	2.9	1.2	1.5
	14	2.9	2.9	1.2	1.4
	15	2.9	2.3	0.9	1.1
	16	2.3	2.2	0.8	1.-
	17	2.2	1.8	0.8	1.-
	18	1.8	1.8	0.7	1.-
	19	1.8	1.7	0.7	0.8
	20	1.7	1.6	0.6	0.7
Top (U.K. top 19)	20	81.2	82.8	89.5	94.6
All other enterprises		18.8	17.2	10.5	5.4
		100 %	100 %	100 %	100 %

Note: The E. C. S. C. figures show the distribution (1) before and (2) after the August Thyssen-Hütte/Phoenix-Rheinrohr concentration. Although this was finally authorized only in 1963, for the sake of comparability 1961 has been used as the reference year for both columns. The E. C. S. C. Lorenz curve in the accompanying graph has been plotted from the figures in the first column.

Figure 9

COMPARATIVE DEGREES OF CONCENTRATION IN THE
E.C.S.C., JAPANESE, BRITISH AND AMERICAN
STEEL INDUSTRIES (LORENZ CURVES)



Ibid., p. 41.

Table 3
Nature and Extent of Concentrations on the Common Market
for Coal and Steel under the Provision of Article 66,
ECSC Treaty, 1953-1958¹

Horizontal Concentrations	Type of Production and Share of Com- mon Market	Nature of Concentration
I. Coal mines		
Consolidation/Essener Steinkohle (Germany)	Coal 2%	Acquisition of majority interest
Hibernia/Emscher-Lippe (Germany)	Coal 5%	Acquisition of shares
II. Coal wholesalers		
Balland-Brugneaux/Ets. Macle-Meisset (France)	4% of French coal consumption	Merger
Vertical Concentrations	Type of Production and Share of Com- mon Market	Nature of Concentration
I. Steel and coal		
Mannesmann AG/Consolida- tion (Germany)	Steel 3%	Merger
Hoesch AG/Altenessen Mining Co. (Germany)	Coal 2% 3%/3%	Hoesch bought shares of Altenessen
Klockner Werke AG/ Konigsborn-Werne (Germany)	3%/2%	Acquisition of majority in mine
August Thyssen-Hutte/ Erin Mining Co. (Germany)	Less than 4% Less than .5%	Acquisition of majority in mine
ARRED/Lothringen Mining Co. (Luxemburg-Germany)	5%/3%	Acquisition of majority in mine
Huttenwerk Oberhausen/ Neue Hoffnung (Germany)	4%/2%	Acquisition of majority of shares
Phoenix-Rheinrohr AG/ Emscher-Lippe (Germany)	5%/1%	Acquisition of majority of shares

¹Schmitt, op. cit., pp. 117-118.

At the end of World War II the Allied powers attempted to make it economically impossible for Germany to wage war on her neighbors again. One method of achieving this end was thought to be to break down much of the industrial vertical concentration and in the case of steel make the steel producers divest themselves of their interests in coal mining. The Schuman plan replaced the Allied powers in attempting to achieve this end and Schmitt reports on the difficulties and success of the ECSC in regard to this problem.

It was not to take long before the reconcentration of German enterprises, a question so conveniently ignored during the ratification debates, came of concern to the High Authority because of vociferous criticism of its permissive policies. On April 8, 1955, Michel Debre addressed an inquiry to the High Authority which concluded: "It appears confirmed that, despite commitments made at least before the French parliament, important reconcentrations operate in Germany now, and that others are in progress."¹ The High Authority responded by maintaining that it was ruled by the Treaty of April 18, 1951, which formed the ECSC, and not by Allied legislation dealing with Germany after World War II. But the High Authority's case consisted of more than passing off the situation as not their responsibility. It

¹Schmitt, op. cit., p. 119.

was common knowledge that the Allies had separated or given orders for separation of German coal mines from steel mills and had broken up the great steel concerns. "Everyone, except Debre" states Schmitt "also granted that the Community could not discriminate against Germany without cutting its own throat." An important question remained, "What danger lurked in the regrouping of these artificially separated components?"¹

A new trend resulted in a number of vertical concentrations where German steel firms either regained control of mines they formerly held or else gained new controlling interests in mines. Among these vertical concentrations were Mannesmann AG acquiring Consolidation, thereby controlling 3% of the Steel production and 2% of the coal production in the Common Market, Hoesch AG acquiring Altenessen Mining Co. controlling 3% each of the Common Market steel and coal production. Also Klockner Werke AG was reunited with Konigsborn Werke producing 3% and 2% of the Common Market's steel and coal respectively. August Thyssen regained control of Niederrheinische Hutte and in turn acquired Erin Mining Co. producing less than 4% and .5% of the Common market steel and coal. None of these mergers conflicted with Article 66 and none of them resulted in control of large portions of Common Market coal or steel production;

¹Ibid., pp. 119-120.

however, they did indicate perhaps the beginning of a trend, one that could evoke concern throughout Europe in light of past experience.¹

Many, including the High Authority, questioned the effectiveness of Allied deconcentrations. The evidence pointed to at least partial failure of the Allies to achieve their goal of separation of the large steel producers from their coal supplies. An example of this was the Mannesmann firm whose stockholders, even during the period of supposed separation, retained 76.4 per cent of the interest in a large mining concern of which Consolidation was a part. During the successive reorganizations the amount of coal that Mannesmann was supplied by Consolidation was not affected. When Huttenwerk asked for a permit to merge with Neue Hoffnung Mining Co. the largest block of stock in both enterprises, 35 per cent, was owned by the Haniel family. It appeared that reorganizations of these concerns were little more than paper work. It became obvious that under all of the conditions that had existed few if any German coal mines in The Ruhr functioned separately from the steel industry. As of early in 1957, 74 per cent of the Ruhr coal was controlled by the steel industry. This condition may change in the future, but not by actions of the High Authority but by an increasing burden of these mines on their owners due to the

¹Ibid., pp. 117 and 120.

cost of Ruhr produced coal compared to alternate supplies of energy.¹

¹Ibid., pp. 120-121.

PROBLEMS ASSOCIATED WITH THE DECLINING DEMAND FOR COAL
Coal and Substitute Fuels

The increased use of substitute fuels for coal has had and will in the future have increasingly important effects on ECSC coal. The ECSC nations are forced, due to a lack of natural reserves, to import almost all of their petroleum and a large portion of their natural gas. This has resulted in a struggle which is intensifying between domestic and imported fuels, oil, gas, and coal which has complicated the integrated coal market of the Community.¹

Imported energy is generally less expensive in Western Europe than indigenous energy. In light of this it is felt that the ECSC is correct in minimizing for member nations the balance of payments effect of energy imports. From an economist's viewpoint the ECSC "Countries have a comparative trade advantage in manufactured goods; they should be interested in inexpensive energy, export their manufactured goods, and import their energy 'gap.'"² Unfortunately there are other political and economic factors which must be taken into consideration, when considering policy toward imported energy. Community investments and employment of workers and other

¹Hans G. Mueller, "Efficiency of Resource Use: The Case of the European Coal and Steel Community" Communications, Southern Economic Journal, Oct., 1965, Vol. XXXII, No. 2, p. 222.

²L.E. Grayson, "Towards a New Energy Pattern in Europe" Southern Economic Journal Vol. XXVIII, No. 1, p. 81, July, 1961.

factors enter into the picture when considering the desirability of imported energy. The need for a single unified energy policy in the ECSC countries is being realized. This is now beginning to be realized with the ECSC working with Euratom. As the directorate of the ECSC is being absorbed into the EEC provisions are being made for a more unified control of all fuel energy usage. Also both the ECSC and the EEC have made studies on the feasibility of such a common policy and are beginning to put some of the proposals from these studies to work.

Individual governments have attempted to avert or alleviate serious hardship to the collieries and the miners caused by imported energy. If such National Governmental intervention does not involve the collieries in actual restriction of competition, the High Authority cannot intervene under Articles 65 and 66. The High Authority has, however, done a great deal of study in this area and both the High Authority and the European Parliament have repeatedly drawn attention to the desirability of amending the anti-restrictive provisions in line with the present situation. However, due to decisions by the Court of Justice, Article 65 has not been successfully amended and the High Authority is obliged to enforce the treaty as it now stands.

There have been some fears voiced that the coal producers in the ECSC may be increasingly absorbed by concentration by the coal consumers. It should be pointed out that it is not uncommon in Europe for consumers to ban together in

cooperatives to form a united front in the purchasing and distribution of goods and services. An example of a cooperative formed by consumers would be the large petroleum products cooperative in Sweden "Oljekonsumenterna-OK" or translated the Oil Consumers Association. It can be argued, however, that structural difficulties in the coal sector and the strides being made by alternative energy sources make such fears of absorption invalid.

The spectre of "giantism" that is held up in some quarters in view of the tendency, for technical reasons, for production units to increase in size may be discounted, especially as it is the High Authority's principle in approving concentrations to ensure that a sufficient degree of competition is maintained. Hence in concentration policy the purely quantitative aspect takes second place to other considerations: these include in particular the elimination of interlocking directorates and of certain types of delivery contract, which would be liable to impair adequate competition among the large units.¹

¹The High Authority's Report on Cartels and Concentrations, op. cit., p. 10.

Imported Coal and Problems Involved

Since the ECSC began its recovery after the Second World War, it has imported coal from foreign nations most of which came from the United States. As can be seen in Table 4 coal imports rose rapidly from 1952 through 1957 reaching a peak of about 43 million metric tons. Coal imports to the ECSC were 29.1 million metric tons in 1965 and dropped slightly to 27.6 million metric tons in 1966 and were expected to be 27.5 million metric tons in 1967.¹ ECSC exports of coal are very minor compared to imports, amounting to 475 thousand metric tons in 1965 and 465 thousand metric tons in 1966.² Switzerland was the largest customer for ECSC coal as they have traditionally purchased coal from the Ruhr receiving it by boat via the Rhine. Other major customers of ECSC coal are Austria and the Scandinavian countries. Exports of ECSC coal have been dropping significantly from 1.875 million tons in 1958.³

The ECSC has found itself in a very undesirable situation in the production of coal. Many ECSC mines are inefficient due in part to the fact that the coal seams are located far below the ground. For these geological reasons and, to an

¹Europe Agence Internationale D Information Pour La Presse, Luxembourg ECSC, Daily Bulletin No. 3989 February 27, 1967.

²Ibid., Bulletin No. 3743, April 5, 1966.

³Ibid.

Table 4
Imports of Coal into ECSC¹

Importing Country	1952	1957	1959	1960	1961
Belgium	1,173	2,820	1,437	934	831
France	5,361	9,701	2,178	1,882	2,363
Germany (F.R.)	7,897	17,234	5,956	5,461	5,601
Italy	5,007	8,805	6,336	6,166	6,740
Luxembourg	67	15	-	-	-
Netherlands	2,707	5,384	3,336	3,304	3,134
Community	22,212	43,959	19,243	17,747	18,669

extent, economic reasons such as increasing labor costs, the cost of producing coal has been quite high, especially when compared with coal from the United States. It is because of this that imports of coal to the ECSC have risen. One source states that some of the ECSC countries are buying American and Russian coal for \$11 to \$12 a ton compared to the European price of between \$14 and \$17.² Imported coal has created problems in the ECSC. One of the major problems has been the threat to domestic coal producers which has been partially met by import quotas and subsidies. By far

¹ECSC 1962 *op. cit.*

²"Curbs Urged in Coking Coal Imports by ECSC," *Journal of Commerce*, Nov. 18, 1956.

the majority of the coal imported into the ECSC comes from the United States. The United States with its very efficient coal producing ability has been strongly promoting export of coal. Unlike the ECSC countries, both the United States and the USSR are planning to increase their output of coal. This is an indication that both nations plan to continue their strong attempts to sell coal in the ECSC countries.¹

It might be noted here that the efficiency of Soviet coal production is about the same as that in the Federal Republic of Germany and slightly higher than that of other ECSC producers. The price of Soviet coal, decided by the Soviet Government often for political reasons, is set to compete with American coal on the ECSC market.²

American coal has created many problems, both economic and political, in the ECSC. The High Authority's report to the Council of Ministers of the EEC states that the "Community mines may be able to satisfy the growing needs of the Community's iron and steel industry for coking coal quantitatively, but that the price position is much less satisfactory."³ The High Authority also believes that prices of

¹The Coal Situation in Europe in 1963/1964 and Future Prospects, Economic Commission for Europe, New York, United Nations, 1965, p. 64.

²Productivity of Underground Coal Workings, Economic Commission for Europe, New York, United Nations, 1965, p. 189.

³Europe Agence Internationale D Information Pour La Presse, Luxembourg, Daily Bulletin, February 25, 1965, p. 11.

coking coal are uneven throughout the ECSC. Prices of coking coal for the steel industry are highest in the Saar, South Germany, Belgium and Luxembourg and are lower in both East and West France and North Germany, as well as in the Ruhr basin. The iron and steel industry has delivered prices for coal about 5% lower than the Community average. Italy and the Netherlands are particularly well placed to use American coal, which they find cheaper than Community coal.¹

There is a difference of opinion as to how much cheaper American coal is than ECSC produced coal. Exact price comparisons are not possible, because of the difficulty of establishing a reliable basis for comparison. "It is common knowledge that the bulk of Community-produced coals are no longer sold at the official ECSC ex-pit prices and the cost of American coal naturally depends on whether they are based on spot or time charter."²

The High Authority has made several studies in attempt to determine the actual cost difference between American and Community produced coal. After one such study they reported that "After looking into the possibility of long term supplies from the USA, the High Authority's experts have come to the

¹Ibid.

²Tugendhat, Dr. Geog. "Coal and Steel Search for Solution," The Times (London) No. 56,724, August 31, 1966, p. 13.

conclusion (hedged about with many reservations) that the Community could get its crude steel produced about 40 cents (US) per ton cheaper if the proportion of American coke supplied to the industry were raised to 25%. The gain would be about a dollar per ton if 50% of the coke used came from the USA.¹

The Times of London in an article by Dr. Georg Tugendhat, reports that a statistical study was recently released by the ECSC which indicated that German steelmakers generally pay between 25 per cent and 35 per cent more for their coking coal than other ECSC steel producers with the Italians paying the lowest prices. American sources claim that the price differential between the landed cost of American coking and Ruhr coals of comparative quality is at least \$8 a ton.²

Ruhr spokesmen who, of course, wish to minimize the difference, claim the difference is not more than \$1.50 a ton on average. The differential is, of course, of vital importance as it determines not only the ultimate cost of any subsidy operation but also whether it is possible to eliminate the impact of higher German coking coal prices by some other means.³

¹Europe Agence D Internationale Pour La Presse, op. cit., Feb. 25, 1965, p. 11.

²Tugendhat, op. cit.

³Ibid.

The coal crisis in Germany, the ECSC's biggest coal producer, has caused severe political problems. Dr. Tugendhat reports that "The Social Democrats' victory in the election in Rhineland Westphalia. . .was undoubtedly helped by the Christian Democrat Union's lack of a concrete policy for coal."¹

Germany began in 1959 to protect her own coal producers from imported coal. She began by placing a six million ton annual duty free quota on imported coal. Coal imports above this amount were for all practical purposes excluded from the German market by a \$5 a ton duty.² Attempts were made to get this quota raised, especially during 1966, but German coal producers and labor representatives always countered such requests with fears that such an increase would cause large amounts of unemployment among coal miners. A significant increase of more than 4 million tons would mean reducing working time and lay-offs for the German miners.³

German coal importers, however, have argued that coal imports ought to have been allowed to participate in the growth of Germany's fuel and energy needs. This has not been the case as since 1961, fuel oil and natural gas have been virtually the only commodities to cash in on increased needs.

¹Ibid.

²Jess Lukomski, "Germans' Hopes Dim on U.S. Coal Import Rise," Journal of Commerce, August 3, 1966, p. 1 & 22.

³Ibid.

Yet imported coal, notably from the United States could well have made a contribution to the lowering of German energy costs.¹

One trade group, the Association of German Coal Importers in Hamburg, has pointed to the current difficulties of the German steel industry. They contend that unlike its Benelux, Italian and French competitors, Germany has been prevented from cutting its coke costs by not being able to use less expensive imported coal. This the association claims has brought about a deterioration of the German mills' competitive standing.²

Mildred M. Loveless of the Coal Exporters Association of the United States, Inc. states the view of many American coal exporters when she reported to the 1966 annual meeting of that group the following:

We know that some of the Coal and Steel Community nations are shutting down uneconomic and high-cost mines, reducing their coal output. As you know, many of our customers want to buy more American coal, but cannot for political reasons. A shortage of miners compounds the mining problem for some of our European competitors, and there have been recommendations by some of the European experts to cut back coal production even further. On balance, I think we can predict that U.S. coal exports will continue to expand, although perhaps not as rapidly as we would like.³

¹"Germans Ask Expanded US Coal Imports," Journal of Commerce, July 11, 1966.

²Ibid.

³Report of Mildred M. Loveless, Assistant Secretary to the 21st Annual Meeting of the Coal Exporters Association of the United States, Inc. June 21, 1966. unpublished.

In the future the United States may be able to deliver coal in the ECSC at an even lower comparative price as new larger coal-carrying vessels are being built in several nations including France, Italy, and Japan to meet the increased demand for US coal.

The ECSC is by far the United States largest customer for coal as it accounted for 42 per cent of US exports in 1965, taking some 21.3 million net tons of bituminous coal and 103,000 tons of anthracite coal.¹

Due to developments in the ECSC and especially Germany which have caused large surpluses in stocks of coal, the ECSC has had to take action to attempt to diminish or resolve this problem. The ECSC expects its hard coal production to drop slightly in the next few years, but it realizes that it will have to help to protect ECSC coal mining operations. The High Authority expects hard coal production potential in the ECSC community to drop from a high of 229.6 million metric tons in 1966 to 209.3 million metric tons in 1967 then continue to decline slowly reaching 198.2 metric tons in 1970.²

The High Authority in dealing with the problem of coal production has now together with the community member nations, instituted a subsidy system for steelmaking coking coal.

¹Ibid.

²Investment in the Community Coalmining and Iron and Steel Industries, Luxembourg, European Coal and Steel Community (The High Authority), July, 1967, p. 13.

Community Subsidy for Steelmaking Coking Coal

As a result of pressures brought on by low cost imported coal and by comparatively inefficient Community coal production, the High Authority approved on February 21, 1967, a subsidy system for steelmaking coking coal.

The decision allows member governments to provide subsidies to coal producers in their countries with the purpose of helping to bring the price of coking coal and coal used for steel production and produced in the ECSC down to a level competitive with imported coal. The subsidy may be paid at a flat rate of \$1.70 per ton or at a varied rate averaging \$1.70 per ton with a maximum subsidy set at \$2.20 a ton. The decision also authorized the governments to institute a joint financing system up to a maximum of \$22 million which will help to cover the cost of subsidies for coal and coking coal which is delivered from one member country to another for use in steel making. A condition is made that coal prices may not be reduced to a level lower than that of imported coal.¹

The subsidies are to be financed on the basis of a 40 per cent contribution by the coal producing country, and 60 per cent by the ECSC countries jointly in the following

¹"Subsidy System for Steelmaking Coking-Coal, High Authority Decision," Spokesman Luxembourg, European Coal and Steel Community, The High Authority, February 22, 1967, p. 1.

ratio: Germany and France: 28 per cent each; Italy: 14 per cent; Belgium: 11 per cent; Netherlands: 10 per cent; and Luxembourg: 9 per cent.¹

The High Authority justified this decision on the basis of Article 95 Number 1 and 2 of the Treaty which covers cases not specifically provided for in the Treaty.

The total cost of the maximum initial program will be shared in terms of actual dollar outlay as follows:

Table 5 2

German Federal Republic	11.7 million dollars, namely	53%
France	3.8	17.4
Belgium	1.9	8.4
Netherlands	1.6	7
Italy	1.8	8.4
Luxembourg	1.2	5.4

There were several reasons for the new subsidy including the existence of rather large although now decreasing coal stocks. ECSC coal stocks fell by 596,000 metric tons to 35,320,000 metric tons during May, 1967, largely as a result of the ECSC's efforts to bring output into line with the depressed demand for coal. Stocks were reduced by 499,000 metric tons in Germany, 77,000 metric tons in the Netherlands, 10,000 metric tons in Belgium, and 4,000 metric tons in Italy. Although coke stocks were also reduced in May, 1967, by some 99,000 metric tons, they still totaled 7,240,000 metric tons

¹Ibid.

²Ibid., p. 2.

which was 1,900,000 tons higher than the May, 1966 level. The total number of coal mine face workers in the ECSC dropped by 5,000 during May, 1967, to a total of 327,000. From May of 1966, through May of 1967, 52,000 miners left the coal industry. Financial help during this period was given to 3,700 workers affected by total or partial closing of ECSC installations in Germany and the Netherlands.¹

Not all are satisfied with the new subsidy program. Some, especially the Germans, feel that it does not go far enough toward solving the problem. On November 9, 1967, Chancellor Kiesinger disclosed a series of significant, though disputed, bills designed to bolster Germany's sagging coal industry and to aid the government owned railway system, which uses and transports coal, at the expense of the German trucking industry.²

The plan calls on Germany's coal industry which at that time was burdened with a surplus of some 20 million tons of coal to establish a single national corporation which would supposedly operate profitable mines and close unprofitable ones. The government by leaving the industry under private operation hopes to avoid some political problems which are quite serious especially since miners in the Ruhr Valley held

¹"Coal Stocks Drop," European Community, Brussels publications Department of the Communities, September, 1967, No. 105, p. 13.

²"West Germany Unveils Proposals to Aid Coal Industry and National Railway System," Wall Street Journal, November 9, 1967, No. 92, Vol. XL, p. 9.

noisy demonstrations during late 1967.¹

More specifically the German coal plan calls for special government aid for the Ruhr area to ease the impact of jobs lost in coal mining and to attract new industry to the area. Special payments of up to \$1,250 would be given to miners who are forced to seek new jobs. Subsidies from the government of 10% on new industrial investments in the area and for expropriation of land for new plants would be made.²

The new plan also calls for the oil industry to continue its present policy of voluntary restraint in expanding its operations in Germany so as to not cause increased pressure on the coal industry. Presently the oil industry has been holding expansion to a maximum of 4% annually for light-fuel oils and 3% for heavy fuel oils. The proposal calls for expanded coal-marketing effort outside Germany and the continuation of tariffs on coal imports until 1970.³

The German government recently proposed that all long hauls of bulk items like coal be banned from the highways by 1970 in hopes of increasing the use of the German railways. Final action on this proposal has not yet been taken.

The actions taken by the ECSC which have included subsidy programs, quotas, and tariffs point to a need for a fuel policy in the ECSC which would work to solve the long run

¹Ibid.

²Ibid.

³Ibid.

problems rather than making temporary efforts to patch over without really solving the problem.

Professor Austin Robinson of Cambridge University working for the OEEC Energy Advisory Commission published a report in 1960 which outlined a broad policy and a set of goals. Basically Robinson puts his primary emphasis on energy cost and the freedom of consumer choice. Since in the ECSC countries imported energy is usually less expensive than domestically produced energy, he believes that having an increasing share of energy supplied by imports is probably good. He views the ambitious coal and nuclear power expansion programs as mistakes. Robinson appears to make his decisions on economic concepts such as cost, price, and consumer's choice rather than on political criteria. There are many important political problems involved such as satisfying the desires of the people involved in the production of ECSC energy that might make Robinson's proposals less feasible.¹

¹Grayson, op. cit., pp. 81-2.

Labor and Social Programs in the ECSC

Under the responsibilities vested in it by the Treaty, the High Authority has formulated broad social policies to protect the workers in the coal industry. To protect the workers from severe social hardship from economic change the High Authority has adopted the following goals; "No factory will be abandoned, and no worker will be allowed to lose his job, until arrangements have been made to retrain workers, new factories built and new opportunities for employment created."¹

By 1970, the ECSC coal industry expects to mine 185 million metric tons of coal compared with 210 million tons in 1966. The ECSC now faces the problem of cutting back on community coal production without forcing large numbers of miners into unemployment or underemployment without compensation.²

During 1966 employment in mining in the ECSC, most of which was in coal mining, fell by 62,000 men or 10 per cent of the mining population. In addition, short-time working caused a production loss of 4.5 million metric tons of coal.³

¹Ten Years of the Coal-Steel Common Market, Luxembourg, The Spokesman of the ECSC's High Authority and the European Community Information Service, 1963, p. 24.

²"Europe's Coal and Steel Situation Reversed since 1951," European Community, Brussels, Publications Department of the European Communities, No. 102 April-May 1967, p. 19.

³Ibid., p. 19.

The social policy of the High Authority is aimed toward two main objectives. The first is the protection of the worker and his living standards. The second is the active promotion of projects to raise living standards and improve working conditions. To ensure continuity of income the High Authority has granted financial assistance to miners and mines. The High Authority gave such assistance during the coal crises of 1958 when because of the excessively high coal stocks mines would otherwise have been compelled to lay off more workers.¹

Basic to the High Authority's program in this field, has been what the Treaty calls readaptation, that is, the retraining and re-employment of workers threatened with unemployment. The reason for readadaptation is to help ensure that workers' living standards do not bear the brunt of technological progress and economic development. Readaptation is also designed to maintain the morale of the workers.²

Readadaptation and industrial redevelopment are two examples of the High Authority's influence on general economic policy in the ECSC. When asked for financial aid by a government, the High Authority considers the request on the basis of effect on the entire working population of the ECSC as well as the

¹"Social Policy in the ECSC," Community Topics, London, European Community Information Service, 1966, p. 3.

²Ibid.

area concerned and also considers the overall economic equilibrium. By the payment of allowances to discharge miners and the granting of loans for the expansion or establishment of production facilities to provide new employment, the High Authority attempts to prevent pockets of low purchasing power from forming. By maintaining workers' income, the High Authority has helped to revitalize the entire economy of each area. Readaptation and redevelopment because of the multiplier effect of the capital investment undertaken have become instruments of general economic policy.¹

In commenting on the effects of readaptation and redevelopment, the ECSC maintains that without these policies, the modernization and rationalization of the coal industry would not have been possible without serious social disruption. Prices of domestically produced coal would have increased sharply. The subsidies needed to have brought these prices down to acceptable levels would have been enormous.²

Although the High Authority does have the power to give financial assistance, it was not intended under the Treaty that the High Authority have the power to conclude agreements fixing wages or working conditions throughout the Community.

¹Ibid., p. 4.

²Ibid.

Therefore, the High Authority has found it necessary to use subsidy, loans, and other indirect means to attempt to maintain wages and working conditions at levels consistent with their goals.

One of the major areas of support given to the coal industry by the High Authority is in its support of occupational training. Much of the occupational training support rendered by the High Authority takes the form of exchanges of information, ideas and experience. In striving toward this end the High Authority establishes committees and working parties which meet regularly to organize seminars, study sessions and fact-finding missions. They also publish reports, studies, annual information bulletins and catalogues of training aids.¹

The High Authority, operating under powers given it by Article 54 of the Treaty, provides financial support for companies which decide to build training centers to meet present-day needs. These centers reflect changes brought about by technological advances.

Occupational training has basically gone through three periods since 1953. The first period, 1953 through 1956, was a period largely devoted to studying the problems of apprenticeship and to the training of miners. This was a period

¹Ibid., p. 6.

of expansion in coal production in the ECSC. However, employment during this period dropped from 685,900 to 648,300. This drop in the number of miners was largely due to improved technology.¹

The second period, from 1957 through 1960, focussed attention mainly on the problems of training managers and instructors. Greater cooperation between the member governments, the High Authority, and industry was experienced during this period. Due to a decision to change its program, on March 16, 1961, the High Authority entered the third period of occupational training activities. The object of the new program was to support the measures being taken in the different member countries to adapt the training of miners to the needs of technical and social progress and to provide systematic advanced training for all the staff. The program covers technical personnel as well as sales, administrative and managerial staffs up to the highest level.²

With the increased technology in mining it is becoming more important for the employees to have increased skills to operate the mines. In the coal mining industry, there has been a steady increase in the last few years in the number of apprentice tradesmen such as fitters, mechanics, electricians, electro-mechanics, and similar occupations both in absolute

¹"ECSC 1962," op. cit.

²"Social Policy in ECSC," op. cit., p. 6.

figures and in terms of proportion of total personnel. It therefore, seems likely that the occupational training programs instituted by the High Authority will remain important as they have been in the past, for at least the near future.¹

Readaptation, retraining and re-employment, has been a major area of concern by the High Authority. Until February 9, 1960, the High Authority made its decisions under Section 23 of the Convention containing the Transitional provisions attached to the ECSC Treaty. On this date the powers expired. On March 29, 1960, Article 56 was amended under which the High Authority now operates in this area.²

Until February 10, 1960, and again after March 29, 1960, the High Authority has undertaken readaptation projects for miners who have lost their jobs because their undertakings had been forced to close down or they had been displaced by changing technology. From March 29, 1960, to January 31, 1966, the High Authority had contributed to the readaptation of 103,441 workers providing \$26.2 million. The Governments concerned provided an equal sum of money. From March 18, 1954, to January 31, 1966, the High Authority allocated a total of \$65.4 million which was matched by the six member Governments, for the retraining and re-employment of 218,150 workers, four-fifths of whom were coalminers.³

¹Ibid., p. 7.

²Ibid., p. 8.

³Ibid., pp. 8-9.

Readaptation works basically in the following way. Tiding-over and differential allowances are used as temporary wage compensations. For a predetermined period of time, the worker receives an allowance, in a fixed amount and in some cases on a descending scale, amounting to between 80% and 100% of the wage he was earning before his discharge. The tiding-over allowance is designed to carry him through the waiting time until he finds employment, perhaps after retraining. This differential allowance helps him if he takes a job, that, either permanently or during an initial adaptation period, pays less than his previous job. It makes up part of the difference between the two wages. Resettlement grants are also available if the worker is obliged to move to another location to assume his new job. Detailed arrangements and amounts of aid vary from country to country depending on local conditions and the agreements negotiated by the individual country and the High Authority.¹

The High Authority has been quite successful in its readaptation program in that with the exception of a very few workers in the coal industry in Italy, due to an almost uninterrupted ready demand for labor, most displaced workers, except for the older workers have been able to find work quickly.

¹Ibid., p. 9.

Industrial redevelopment has been another area in which the High Authority under the amendment of Article 56 has been active. Here an effort has been made to move industries into areas with large numbers of discharged miners in an effort to keep the areas from becoming depressed. In this area the High Authority works with the Common Market Commission and the European Investment Bank. The national Governments have the most say in the redevelopment programs.¹

The High Authority has made loans for industrial redevelopment to absorb redundant coal and steel workers in five member countries amounting to \$17 million during 1966. From 1952 through 1966, the High Authority lent \$46 million.²

When an enterprise borrows money from this program, they are required to hire a substantial proportion of their new employees from the ranks of the displaced ECSC workers.

Many problems, however, do still exist in the labor sector in the ECSC. The differences that continue to exist even between different regions of the same country, are indications of the extreme difficulty of achieving harmonization on a Community scale. Living and working conditions are often governed by economic factors, such as the state of labor supply, and by sociological factors, such as the relative size and influence of employers' and workers' organizations.

¹Ibid., p. 11.

²"Europe's Coal and Steel Situation Reversed since 1951."
op. cit.

These factors create problems when trying to formulate and carry out policy in the ECSC.¹

Another problem that faces the High Authority is that of training new workers for the future. Although there is an abundance of miners at present, mining is not a very attractive occupation, and because of the increasing standard of living in the ECSC countries, there is some concern over miners for the future. The High Authority has anticipated this problem and through training programs has attempted to keep the supply of new workers entering the coal industry in balance with the expected need for such workers in the future.

Another area of concern to the High Authority is that of housing for ECSC workers. As of September 1, 1965, the High Authority had contributed financially to the construction of some 92,476 dwellings of which 58,507 were for renting and 33,972 for owner-occupation. Of these dwellings 70,922 had been completed, 15,403 were under construction and 6,162 were in the planning stage. Out of the \$782.24 million required to build these projects the High Authority arranged to loan \$230 million. The High Authority's loan never exceeds 50 per cent of the total construction cost and is lent in most cases at about 1 per cent rate of interest.²

¹"Social Policy in the ECSC," op. cit., p. 12.

²Ibid., pp. 15-16.

Under Article 55 the High Authority is concerned with health, safety and medicine. Involvement here usually includes the coordination of scientific work, the financing of research, and the dissemination of information. The High Authority is especially involved in work concerning mine safety.

At present efforts are being made to draw up a long term social-development program and to coordinate the programs more closely with the other member groups of the European Community. It seems likely that problems of displaced miners will continue for at least the next few years as the coal industry in the ECSC continues to contract.

CONCLUSIONS

During the years that the ECSC has been in existence it appears that one of the biggest concerns of the High Authority has been in maintaining competition among the firms that it regulates. The High Authority has had to deal with markets whose firms have always been prone to cartels and concentration. The High Authority appears to have made no radical changes with the past but it has attempted to regulate and in some cases even challenge some cartels and concentrations in the ECSC. When the High Authority felt that a combination was flagrantly violating the rules of competition they were not afraid to act such as in the case of GEORG and ATIC. They often found that the best they could do was to compromise on a decision which sometimes returned some competition to the market. This is especially true in the case of vertical combinations where the High Authority has not been able to change the market. The Mannesmann firm's ability to hold on to its control of coal production in spite of what regulatory groups have done is an example of this. The fact that in 1957, 74 per cent of the Ruhr coal was controlled by steel firms indicates that much vertical concentration does exist. Probably a more important consideration here is that the High Authority has been quite successful in keeping the vertical concentrations from gaining strong control of the coal markets or production facilities horizontally, that is for example not allowing one steel producer to gain a strong

control of the market for coal used in steel-making in his region.

In the ECSC an application for combination can be denied under the rules of the Treaty if it appears to meet certain negative criteria, that is if it appears that the combination would cause certain conditions which were forbidden by the rules of the Treaty. If there is little doubt that the combination would violate the negative conditions outlined in the Treaty, then the combination is automatically approved. There is no requirement that the applicant show that the combination will be beneficial to either the ECSC or itself. It is because of this rule together with precedent and perhaps the High Authority's reasoning that combinations might lead to increased production that so many combinations and cartels were approved or allowed to exist in the community. This is to say that at least some of the cartels and concentrations exist in the ECSC for no positive or beneficial reason at all except perhaps to satisfy the desires of their owners.

A very important factor in the goals and the planning of the ECSC is that of a co-ordinated fuel policy.

The ECSC in the time of crises followed separate national plans too closely rather than implementing its own Community-wide plans. Such plans as national subsidies in place of Community-wide subsidy programs were probably in most cases not in the best interests of the Community. Another failure

was the unwillingness of the national governments to accept the ECSC proposal for uniform cuts in production and imports, "Rejection was based largely on French and German objection to the production quotas. They argued (correctly) that much of the crisis was due to Belgian insistence on protection of its inefficient mines and that these mines should, therefore, bear proportionally more of the adjustment."¹ The ECSC has now undertaken a program to reorganize the Belgian industry. This illustrates that in effect the national governments do have a great deal of power in ECSC, perhaps a power stronger in ability to cripple rather than build long range programs designed for the betterment of conditions in the entire Community.

The ECSC has had some success in its social programs, especially in the area of retraining and housing workers and in industrial redevelopment of some of the areas where coal mining has declined.

Unfortunately, in some cases, regulation has recently meant more, not less, restrictions and barriers to market viability. This is the case with recent German announcements of new subsidies. What is needed is a policy in the ECSC which will be Community-wide in scope and will develop a satisfactory energy market unhampered by rules that prevent proper allocation.

¹Richard L. Gordon, "Coal Price Regulation in the European Community, 1946-1961," The Journal of Industrial Economics, Vol. X, No. 3, July, 1962, p. 201.

The long term goal of the Community members should be to provide inexpensive energy. Since the Community countries generally have a comparative trade advantage in manufactured goods, they should concentrate on exporting these manufactured goods and import their fuel when it is less expensive than domestically produced fuel.

What is most strongly needed is an effective common fuel policy, one that would cover and coordinate the use of all fuels, a policy that would have as its objective the supply of inexpensive fuel and the elimination of uneconomic fuel sources.

It will not be until such a common fuel policy is realized that the basic purpose of the ECSC will be realized, that of a supply of fuel at a "best" price for the entire Community.

BIBLIOGRAPHY

Books

- Calman, John ed., The Common Market, London, Anthony Blond Ltd., 1967.
- Camps, Miriam, Britain and the European Community 1955-1963, Princeton New Jersey, Princeton University Press, 1964.
- Cerami, Charles A., Alliance Born of Danger, New York, Harcourt, Brace and World, Inc., 1963.
- Clark, W. Hartley, The Politics of the Common Market, Englewood Cliffs, New Jersey, Prentice-Hall, Inc., 1967.
- Clark, Colin, The Common Market and British Trade, New York, Frederick A. Praeger, Inc., 1962.
- Jensen, W.G., The Common Market, London, G.T. Foulis and Co. Ltd., 1967.
- Junckerstorff, H.K., ed., International Manual on the European Economic Community, St. Louis, Missouri, Saint Louis University Press, 1963.
- Mayne, Richard, The Community of Europe, New York, W. W. Norton and Company, Inc., 1962.
- McLachlan, D.L. and Swann, D., Competition Policy in the European Community, London, Oxford University Press, 1967.
- Pounds, N.J.G., Parker, W.N., Coal and Steel in Western Europe, Bloomington Indiana, Indiana University Press, 1957.

Periodicals

- Bell, J., "The Fall of the House of Krupp," Fortune, August 1967, Vol. LXXVI, No. 2, pp. 72-81+.
- "Coal Stocks Drop," European Community, Brussels, Publications Department of the European Communities, September, 1967, No. 105, p. 13.

"Curbs Urge in Coking Coal Imports by ECSC," Journal of Commerce, November 18, 1966.

"Europe's Coal and Steel Situation Reversed Since 1951," European Community, April-May 1967, Brussels, Publications Department of the European Communities, No. 102, p. 19.

"Europe Finds Growth can Boomerang," Business Week, No. 1918, June 4, 1966, pp. 63-80.

"Germans Ask Expanded US Coal Imports," Journal of Commerce, July 11, 1966.

Gordon, R.L., "Coal Price Regulation in the European Community, 1946-1961," The Journal of Industrial Economics, Vol. X, No. 3, July 1962, pp. 188-203.

Grayson, L.E., "Towards a New Energy Pattern in Europe," Southern Economic Journal, Vol. XXVIII, No. 1, July, 1961, pp. 79-82.

Lukomski, J., "Germans' Hopes Dim on U.S. Coal Import Rise," Journal of Commerce, August 3, 1966, p. 1.

Mueller, H.G., "Efficiency of Resource Use: The Case of the European Coal and Steel Community," Communications, Southern Economic Journal, October, 1966, Vol. XXXII, No. 2, pp. 222-225.

"New Institutions," European Community, July-August 1967, Publications Department of the European Communities, Brussels, No. 104.

Rey, J., "July 1, 1967," European Community, July-August 1967, Publications Department of the European Communities, Brussels, No. 104.

Root, F.R., "Antitrust Policy in the European Common Market," Notes and Communications, Quarterly Review of Economics and Business, No. 3, Vol. 3, Autumn 1963.

Schmitt, H. Q., "The European Coal and Steel Community: Operations of the First European Antitrust Law, 1952-1958," Business History Review, Vol. XXXVIII, Spring 1964, pp. 102-122.

Tugendhat, G., "Coal and Steel Search for Solution," The Times (London), No. 56,724, August 31, 1966, p. 13.

"Twenty Questions," European Community, March, 1964, Publications Department of the European Communities, Brussels.

"West Germany Unveils Proposals to Aid Coal Industry and National Railway System," Wall Street Journal, November 9, 1967, Vol. XL, No. 92, p. 9.

Documents

The Coal Situation in Europe in 1963/1964 and Future Prospects, Economic Commission for Europe, United Nations, New York, 1965.

ECSC 1962, High Authority Spokesman's Office, Information Service of the European Communities, September, 1962, Luxembourg.

Europe Agence Internationale D Information Pour La Presse, Daily Bulletin, February 25, 1965.

Europe Agence Internationale D Information Pour La Presse, Daily Bulletin No. 3989, February 27, 1967, European Coal and Steel Community, Luxembourg.

Europe Agence Internationale D Information Pour La Presse, Daily Bulletin No. 3743, April 5, 1966, European Coal and Steel Community, Luxembourg.

11th General Report of the Activities of the Community (February 1, 1965-January 31, 1966), Luxembourg, The European Coal and Steel Community, The High Authority March, 1966.

Investment in the Community Coalmining and Iron and Steel Industries, European Coal and Steel Community, The High Authority, Luxembourg, July, 1967.

Productivity of Underground Coal Workings, New York, Economic Commission for Europe, United Nations, 1965.

Report on the High Authority's Policy Concerning Cartels and Concentrations, Luxembourg, European Coal and Steel Community, The High Authority, Luxembourg, April 20, 1964.

Report of Mildred M. Loveless, Assistant Secretary to the 21st. Annual Meeting of the Coal Exporters' Association of the United States, Inc., June 21, 1966, unpublished.

"Social Policy in the ECSC," Community Topics, London,
European Community Information Service, 1966, No. 20.

"Subsidy System for Steelmaking Coking-Coal, High Authority
Decision," Spokesman, Luxembourg, European Coal and
Steel Community, The High Authority, February 22, 1967.

"Summary of The High Authority's Policy Report," Spokesman,
European Coal and Steel Community, The High Authority,
Luxembourg, March, 1965.

"Summary of the Introduction to High Authority 15th General
Report," Spokesman, European Coal and Steel Community,
The High Authority, Luxembourg, March 15, 1967.

Ten Years of the Coal-Steel Common Market, Luxembourg, The
Spokesman of The ECSC's High Authority and the European
Community Information Service, 1963.

13th General Report of the Activities of the Community
(February 1, 1964-January 31, 1965), Luxembourg,
European Coal and Steel Community, The High Authority,
March 1965.

COAL AND THE EUROPEAN COAL AND STEEL COMMUNITY

by

THOMAS ALLEN TAYLOR

B. A., Iowa Wesleyan College, 1965

AN ABSTRACT OF A MASTER'S REPORT

submitted in partial fulfillment of the

requirements for the degree

MASTER OF ARTS

Department of Economics

KANSAS STATE UNIVERSITY
Manhattan, Kansas

1968

This report reviews the Activities of the European Coal and Steel Community from its inception in 1951 to date. It emphasizes two aspects of the administration of the coal industry by the ECSC. These aspects are the policy toward competition and the adjustment of the Community to the declining market for coal since 1957.

The European Coal and Steel Community (ECSC) was formed by treaty on April 18, 1951. The six nations to sign the treaty were Belgium, France, the German Federal Republic, Italy, Luxembourg, and the Netherlands. The ECSC was formed to create a large and more efficient market for the production and distribution of coal and steel and to supply coal to the customers of the ECSC at a reasonable or best price.

The ECSC through its governing body, The High Authority, has worked to achieve the goals of the Community which are outlined by the principles of the Treaty. Central to these principles of an efficient Community with a good supply of coal at reasonable prices, is the regulation of firms in the ECSC in terms of pricing and competition.

The High Authority requires that firms under its jurisdiction publish and adhere to approved price schedules. The High Authority has been quite successful in receiving cooperation from the coal industry in the application of this requirement.

The High Authority is required to approve all concentrations among firms under its jurisdiction. It has attempted

to promote competition for industries which have traditionally been prone to cartels and concentrations among both producers and distributors. The record has been one of permissiveness in granting approval for concentrations, partially due to the Treaty requirement that applicants automatically be granted permission if they do not violate certain negative criteria such as restriction of competition. The traditional acceptance of cartels and concentrations also seems to explain the tolerant attitude of the High Authority toward such arrangements.

From the inception of the ECSC until 1957 the High Authority made a concerted effort to increase coal production in the ECSC to meet the rising demand for it. After 1957 the coal market changed from one characterized by excess demand to one characterized by excess production. The rise of other fuels as suppliers of energy to the Community together with the availability or less expensive imported coal and increasing costs in many of the ECSC coal production areas have turned ECSC coal industry into a declining industry.

The ECSC has initiated a broad plan subsidies for programs of readaptation and retraining. This plan is intended to help the coal industry improve its productivity and to lessen the harmful effects of the decline of production on the workers in the industry, the industry, and the Community.

The ECSC coal industry is an industry with a structure characterized by oligopoly. In some areas vertical concentration

is quite prevalent such as in the Ruhr where about 74 per cent of the coal production is controlled by steel firms. Horizontal concentration is also quite prevalent in some areas. An example would be the sales cartels in Belgium and in the southern portion of Germany.

The ECSC will have to develop an effective fuel policy plan and program covering all forms of fuels if it is going to realize the goals of the Community of providing fuel for the customers of the Community at prices which will be best for all of the Community.